

## **EXHIBIT 1**

*Transcript of Deposition of Margaret Stock*

**In the Matter Of:**  
**TIWARI, ET AL. v MATTIS**

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**MARGARET STOCK**

*October 15, 2018*

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1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

3  
4 Kirti Tiwari, Seung Yoon Yang,  
5 Amandeep Singh, Duncan Makau,  
6 Valdeta Mehanja, Luobin Sun,  
7 Rui Zhang, and Raj Chettri,

8 Plaintiffs,

9 vs.

10 James Mattis, Secretary, U.S.  
11 Department of Defense, in his  
12 official capacity,

13 Defendant.

14  
15 NO. 17-cv-242-TSZ

16

17

18

19 DEPOSITION OF MARGARET STOCK

20

21

22 Pages 1 - 314, inclusive

23

24 Monday, October 15, 2018

25 9:00 a.m.

26

27 Taken by Counsel for Defendant  
28 at  
29 UNITED STATES ATTORNEY'S OFFICE  
30 222 West Seventh Avenue  
31 Anchorage, Alaska

**CERTIFIED  
TRANSCRIPT**

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25		A P P E A R A N C E S		Page 2	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25		ANCHORAGE, ALASKA MONDAY, OCTOBER 15, 2018 9:09 A.M. -oOo- MARGARET STOCK, deponent herein, being duly sworn upon oath, was examined and testified as follows: EXAMINATION BY MR. SWINTON: Q. Good morning, Ms. Stock. We just introduced ourselves a few seconds ago, but for purposes of the record, my name is Nathan Swinton, and I'm an attorney with the United States Department of Justice. I represent the United States in the case Tiwari versus Mattis currently pending in the Western District of Washington. Are you represented by counsel today? A. No. Q. Have you ever had your deposition taken before? A. I have. Q. How many times have you been deposed? A. I'm not absolutely sure. Q. Do you have an estimate? A. Less than a dozen times. Q. Have you had your deposition taken in a case concerning the MAVNI program?		Page 4
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25		I N D E X		Page 3	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25		A. No. Q. Have you ever been deposed when you've been designated as an expert in a case? A. Yes. Q. What case was that? A. Sister Fahy versus -- I think it was the State of New Hampshire as the defendant. Q. Can you spell Fahy for me? A. I think it is F as in Foxtrot, A as in Alpha, H as in Hotel -- I believe it's Y as in Yankee, but it could be Echo Yankee. Q. Was that case in district court, in federal district court? A. I believe it was in federal district court in New Hampshire. Q. Are there any other cases where you've been deposed as an expert witness? A. I don't believe so, but I can't be absolutely sure, because I've been practicing law for a long time and it's possible that I've forgotten about a deposition. Q. These are cases in which you've served as an expert witness, correct? A. Well, served as an expert witness. I've been called regularly in Alaska to testify as an expert about immigration law, and I don't believe I've been deposed. I		Page 5
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25		EXAMINATION BY: Mr. Swinton		PAGE 4	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25		EXHIBITS  NO. DESCRIPTION PAGE Exh A 10-5-18 Margaret D. Stock Expert Witness Report (6 pages) 165 Exh B The Military Accessions Vital to the National Interest (MAVNI) Program (120 pages) 241 Exh C Declaration of Stephanie Miller (4 pages) 249 Exh D To Motion for Partial Summary Judgment and Permanent Injunction (23 pages) 256 Exh E Declaration of Roger Smith (32 pages) 256 Exh F Affidavit of Margaret D. Stock (9 pages) 288 Exh G Supplemental Affidavit of Margaret Stock (16 pages) 293 Exh H To Plaintiffs' Reply Brief in Support of Motion for Partial Summary Judgment and Opposition to DoD's Cross-Motion for Summary Judgment (22 pages) 297 Exh I The Impact and Potential of America's Foreign Born Population on Army Recruiting and Force 2025 (22 pages) 305 Exh J Impact & Potential of Recruiting the Foreign Born Briefing to Recruiting 2025 Forum (16 pages) 308		

<p style="text-align: right;">Page 6</p> <p>1 <b>think it's only been in court.</b></p> <p>2 Q. So the only case you're able to identify where</p> <p>3 you were serving as an expert witness and were deposed is</p> <p>4 the Sister Fahy case?</p> <p>5 <b>A. Yes, as far as I know. As far as I can recall.</b></p> <p>6 Q. But there were other occasions on which you had</p> <p>7 your deposition taken before?</p> <p>8 <b>A. No. That's what I just said. I think it's only</b></p> <p>9 <b>the Fahy case where I've been deposed. I've been an</b></p> <p>10 <b>expert in court. So they wouldn't do a deposition. They</b></p> <p>11 <b>would just call me straight in court.</b></p> <p>12 Q. I understand. Have you ever had your deposition</p> <p>13 taken when you were not serving as an expert witness?</p> <p>14 <b>A. I don't believe so.</b></p> <p>15 Q. Just to remind you -- and I know you're an</p> <p>16 attorney, so you probably understand how depositions</p> <p>17 work -- but I'll be asking you a series of questions today</p> <p>18 and you're under an oath to provide full and complete</p> <p>19 answers.</p> <p>20 If you don't understand any question I ask you,</p> <p>21 please let me know before you respond and I'll try to</p> <p>22 rephrase the question. Okay?</p> <p>23 <b>A. Okay.</b></p> <p>24 Q. Did you take an oath before we started this</p> <p>25 morning?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. From time to time Mr. O'Donnell may object to</p> <p>2 questions. After his objection, I'm going to ask that you</p> <p>3 go ahead and answer the question unless he instructs you</p> <p>4 not to. Do you understand?</p> <p>5 <b>A. I understand.</b></p> <p>6 Q. I'd also like to address one issue that arose</p> <p>7 during the deposition of Naomi Verdugo. As my Department</p> <p>8 of Justice colleague conveyed to Mr. O'Donnell during that</p> <p>9 deposition, it is inappropriate for deponent and counsel</p> <p>10 to discuss the deposition during any breaks. I therefore</p> <p>11 want to make it clear at the beginning of this deposition</p> <p>12 that you should not discuss today's deposition with</p> <p>13 Mr. O'Donnell during any breaks. Do you understand?</p> <p>14 <b>A. I understand.</b></p> <p>15 MR. O'DONNELL: I understand that's your</p> <p>16 position. I've looked at that and I still disagree with</p> <p>17 it.</p> <p>18 BY MR. SWINTON:</p> <p>19 Q. Ms. Stock, have you taken or do you intend to</p> <p>20 take any medication or controlled substances that would</p> <p>21 affect your ability to testify accurately or honestly?</p> <p>22 <b>A. No.</b></p> <p>23 Q. And I now am going to turn it over to Mr. Nosse,</p> <p>24 who has one statement to make on behalf of the Army.</p> <p>25 MR. NOSSE: Good morning. I'm Major Joseph</p>
<p style="text-align: right;">Page 7</p> <p>1 <b>A. I did. Just now.</b></p> <p>2 Q. Do you understand the nature of that oath?</p> <p>3 <b>A. Yes, I do.</b></p> <p>4 Q. So that oath requires you to fully answer each</p> <p>5 question to the extent that you can. If you're not sure</p> <p>6 of an answer or if you don't have a complete answer, then</p> <p>7 you must still answer the question to the extent that you</p> <p>8 can.</p> <p>9 As you can see, the court reporter is recording</p> <p>10 all that is said here. Because she can only record our</p> <p>11 words and cannot record head nods or hand gestures, please</p> <p>12 answer each question with a verbal response. Okay?</p> <p>13 <b>A. Okay.</b></p> <p>14 Q. Please also wait for me to finish my question</p> <p>15 before you respond so that we can avoid talking over one</p> <p>16 another. Okay?</p> <p>17 <b>A. That's fine. I'll do that.</b></p> <p>18 Q. I like to take breaks approximately every hour</p> <p>19 and a half, but if you need to take a break before that</p> <p>20 time, please let me know. Okay?</p> <p>21 <b>A. I will let you know.</b></p> <p>22 Q. The one thing that I'd ask is that if there's a</p> <p>23 question pending, please answer that question before we</p> <p>24 take the break. Okay?</p> <p>25 <b>A. Okay.</b></p>	<p style="text-align: right;">Page 9</p> <p>1 Nosse, an attorney with the U.S. Army Litigation Division.</p> <p>2 I'm present today representing the United States Army as</p> <p>3 required by 32 CFR Section 516.48. It is DoD policy that</p> <p>4 official information should generally be made reasonably</p> <p>5 available for use in federal and state courts and by other</p> <p>6 governmental bodies unless the information is classified,</p> <p>7 privileged, or otherwise protected from public disclosure.</p> <p>8 Because the Army has not received an official</p> <p>9 request for official -- for disclosure of official</p> <p>10 information by former DoD personnel, the Army is reserving</p> <p>11 its objection -- or reserving its right to object to</p> <p>12 disclosure of official information during the course of</p> <p>13 the trial in accordance with 32 CFR Section 516.</p> <p>14 BY MR. SWINTON:</p> <p>15 Q. Okay. Ms. Stock, please state and spell your</p> <p>16 full name for the record?</p> <p>17 <b>A. My name is Margaret Stock. My first name is</b></p> <p>18 <b>Margaret, M-a-r-g-a-r-e-t. My last name is Stock,</b></p> <p>19 <b>S-t-o-c-k.</b></p> <p>20 Q. Did you prepare for your deposition today?</p> <p>21 <b>A. I did.</b></p> <p>22 Q. What did you do to prepare?</p> <p>23 <b>A. I prepared an expert report. I reviewed my</b></p> <p>24 <b>prior affidavits and declarations in this case. I</b></p> <p>25 <b>reviewed the reports that I cited in the case. I</b></p>

<p style="text-align: right;">Page 10</p> <p>1 reviewed, I think, approximately 30 counterintelligence 2 reports. 3 Q. Did you meet with Mr. O'Donnell? 4 A. I met with Mr. O'Donnell and I gave him the 5 counterintelligence reports, yes. 6 Q. Did you review the reports of any other experts 7 in this case? 8 A. I did read the report of Dr. Naomi Verdugo. 9 Q. Did you review the deposition transcript of 10 Naomi Verdugo? 11 A. No, I did not. 12 Q. Other than counsel, did you talk to anyone as 13 part of your preparation for the deposition? 14 A. No. 15 Q. Did you talk to Naomi Verdugo about her 16 deposition? 17 A. No. 18 Q. Did you participate in preparing responses to 19 any discovery requests in this case? 20 A. No. Well, except expert. I mean, I prepared my 21 expert report. I think that was part of one of your 22 discovery requests. 23 Q. Did you bring any documents with you today? 24 A. I gave them to Mr. O'Donnell. I didn't bring 25 them personally.</p>	<p style="text-align: right;">Page 12</p> <p>1 staff at the law firm. Making payroll, signing checks, 2 making decisions about who to hire and fire. I also 3 handle cases. I provide legal advice to the junior 4 attorneys. I make decisions about copy machines and 5 computers and things like that. 6 Q. Do you make decisions about which cases to 7 handle? 8 A. Yes. The exception being if somebody joins the 9 firm and brings cases, then I don't make a decision about 10 that. So earlier you were discussing the Safeway case, 11 and I have absolutely no knowledge of the Safeway case and 12 I don't supervise it and I didn't make a decision to bring 13 it to the firm. It was brought by an attorney who joined 14 our firm after taking that case. 15 Q. How many paralegals do you have at your firm? 16 A. We have about -- I have to do the count here. 17 Trying to run through the names in my head, so give me a 18 minute. At the moment we have five. 19 Q. Does the office have a physical location? 20 A. Yes. 21 Q. Is that in Anchorage? 22 A. It is. 23 Q. Are there any other offices of the firm? 24 A. We have no other offices for Cascadia Cross 25 Border Law Group Alaska, but we have an affiliate office</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. So you don't have any documents that you have 2 access to right now during the deposition? 3 A. Well, there was a subpoena, and I looked at the 4 subpoena and I got everything that I thought was 5 responsive to the subpoena and I gave it to Mr. O'Donnell. 6 I signed an objection to one of the requests. 7 Q. Okay. Ms. Stock, what is your current place of 8 employment? 9 A. I am currently the managing partner at Cascadia 10 Cross Border Law Group in Anchorage, Alaska. 11 Q. How big is that law firm? 12 A. It has 17 employees as of today. 13 Q. How many attorneys are in the law firm? 14 A. Five. 15 Q. Does it have a structure of partners and 16 associates? 17 A. Well, I'm the only owner at the moment, the only 18 partner at the moment. Everyone else is an employee. 19 Q. So you're the owner/managing partner. And the 20 other four attorneys, what are their positions called? 21 A. Associate or of counsel. 22 Q. What does it mean to be the owner of the law 23 firm? 24 A. It means I don't make any money and I am 25 responsible for supervising all the attorneys and the</p>	<p style="text-align: right;">Page 13</p> <p>1 that is legally independent of ours in Bellingham, 2 Washington. 3 Q. Do you have any control over the Bellingham 4 office? 5 A. I do not. 6 Q. The physical office in Anchorage, do all staff 7 work out of that physical office location? 8 A. No, they don't. 9 Q. Where else would they work? 10 A. We have an attorney who works in Louisiana 11 remotely, and then Neil O'Donnell doesn't actually work in 12 our office. 13 Q. Where does Mr. O'Donnell work? 14 A. He works out of his house. 15 Q. You mentioned that you're the sole owner of the 16 firm. 17 How does that work with profit-sharing? 18 A. Well, there aren't any profits, so there's no 19 profit-sharing. 20 Q. So how does the firm make money? 21 A. Well, we charge clients money and then we take 22 the payments and then we disburse them in the form of 23 salary and so forth. But we basically take an enormous 24 amount of pro bono work, so don't make any money. We 25 don't have a profit.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. But employees earn salaries?</p> <p>2 <b>A. Employees earn salaries. That's correct.</b></p> <p>3 Q. As the owner and managing partner, is your</p> <p>4 salary different than the other four attorneys at the</p> <p>5 firm?</p> <p>6 <b>A. I'm paid by the hour. I make \$10 an hour.</b></p> <p>7 Q. How is that compensation structure arranged?</p> <p>8 <b>A. What do you mean?</b></p> <p>9 Q. I guess, who decided your salary?</p> <p>10 <b>A. I did.</b></p> <p>11 Q. How are the other four attorneys -- what are the</p> <p>12 other four attorneys' compensation?</p> <p>13 <b>A. They're either paid hourly if they're a</b></p> <p>14 <b>part-time attorney or they have an annual salary if</b></p> <p>15 <b>they're a full-time attorney.</b></p> <p>16 <b>Q. Who founded the firm?</b></p> <p>17 <b>A. I did.</b></p> <p>18 <b>Q. When did you found it?</b></p> <p>19 <b>A. 2013.</b></p> <p>20 Q. How many attorneys did you have at the time of</p> <p>21 its founding?</p> <p>22 <b>A. Just one.</b></p> <p>23 Q. When did you add other attorneys?</p> <p>24 <b>A. I added them gradually over the five-year period</b></p> <p>25 <b>from 2013 until now.</b></p>	<p style="text-align: right;">Page 16</p> <p>1 package as part of their compensation?</p> <p>2 <b>A. No.</b></p> <p>3 Q. When the firm earns money from a case -- or when</p> <p>4 the firm obtains money from a case, either -- I guess</p> <p>5 through attorneys' fees, is that -- how is that money</p> <p>6 then -- let me start over.</p> <p>7 <b>When a firm is paid fees for its work, does that</b></p> <p>8 <b>money go into a common pool which is then used to pay</b></p> <p>9 <b>costs, including the hourly salaries of attorneys?</b></p> <p>10 <b>A. If we earn money from a case, we use it to pay</b></p> <p>11 <b>our bills, if that's what you mean. We pay the credit</b></p> <p>12 <b>line down, we pay payroll, we pay Westlaw, we pay airline</b></p> <p>13 <b>tickets, things like that.</b></p> <p>14 Q. Are there any sources of revenue other than</p> <p>15 attorneys' fees for the firm?</p> <p>16 <b>A. I earn a couple thousand dollars a year in book</b></p> <p>17 <b>royalties.</b></p> <p>18 Q. And you use that money to pay firm expenses?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Are there any other sources of revenue other</p> <p>21 than attorneys' fees and book revenues?</p> <p>22 <b>A. Occasionally I get paid an honorarium to give a</b></p> <p>23 <b>speech.</b></p> <p>24 Q. And you'll use the money from the honorarium to</p> <p>25 pay costs for the firm?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. When did you add the first attorney other than</p> <p>2 yourself?</p> <p>3 <b>A. I think it was the fall of 2013. I had a former</b></p> <p>4 <b>government attorney come to me and ask me for a job,</b></p> <p>5 <b>wanted a part-time job working for my firm.</b></p> <p>6 Q. When you founded it, did you intend to have</p> <p>7 other attorneys in the practice?</p> <p>8 <b>A. I thought at some point I would have other</b></p> <p>9 <b>attorneys in the practice if I could find competent</b></p> <p>10 <b>attorneys who were interested in practicing immigration</b></p> <p>11 <b>law.</b></p> <p>12 Q. Why did you found the firm?</p> <p>13 <b>A. I was unhappy with the firm that I was working</b></p> <p>14 <b>at and decided I wanted to go out on my own.</b></p> <p>15 Q. What is Mr. O'Donnell's salary at the firm?</p> <p>16 <b>A. \$10 an hour.</b></p> <p>17 Q. Do you have a benefits package for yourself?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Do you receive health insurance?</p> <p>20 <b>A. Yes. We do have health insurance. We have</b></p> <p>21 <b>health insurance for all of our employees.</b></p> <p>22 Q. Do you have any sort of retirement package as</p> <p>23 part of your compensation?</p> <p>24 <b>A. We don't.</b></p> <p>25 Q. Do any attorneys at your firm have a retirement</p>	<p style="text-align: right;">Page 17</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Do any other attorneys earn revenues from books</p> <p>3 or honorariums?</p> <p>4 <b>A. No.</b></p> <p>5 Q. So you're the only attorney who would bring in</p> <p>6 money other than from attorneys' fees?</p> <p>7 <b>A. Right.</b></p> <p>8 Q. Are there any other sources of revenue other</p> <p>9 than attorneys' fees, honorariums, and book revenues for</p> <p>10 the firm?</p> <p>11 <b>A. Not that I know of. There may be like</b></p> <p>12 <b>incidental reimbursements for things.</b></p> <p>13 Q. Are the attorneys' fees -- I'm sorry. Let me</p> <p>14 ask a different question.</p> <p>15 What percentage of the firm's cases are taken</p> <p>16 pro bono?</p> <p>17 <b>A. I don't know, but it's very large.</b></p> <p>18 Q. And when you take a case pro bono, do you then</p> <p>19 seek attorneys' fees if you prevail?</p> <p>20 <b>A. If there are attorneys' fees available, but</b></p> <p>21 <b>there aren't often in many of the cases I take.</b></p> <p>22 Q. So if attorneys' fees are available in a case,</p> <p>23 attorneys in your firm would seek them if they've taken</p> <p>24 the case pro bono?</p> <p>25 <b>A. If the client directs them to seek them, yeah.</b></p>



<p style="text-align: right;">Page 18</p> <p>1 Q. If you could give an approximation, what 2 percentage of the cases that your firm takes are pro bono? 3 <b>A. I can't really give you a percentage right now.</b> 4 <b>I would have to go back and look at the total number of</b> 5 <b>cases and how many of them are pro bono. I don't know off</b> 6 <b>the top of my head.</b> 7 Q. Would you say it's more than 75 percent? 8 <b>A. Well, no, because it's -- I don't think you can</b> 9 <b>do it by percentages. If you're talking about the total</b> 10 <b>revenue versus the number of cases that we have that are</b> 11 <b>pro bono.</b> 12 Q. Let's ask in terms of attorneys' time, in terms 13 of how attorneys in your firm spend the time. 14 Would you say that they spend their time on 15 pro bono cases -- or more than 75 percent of their time on 16 pro bono cases? 17 <b>A. I do.</b> 18 Q. What about the other four attorneys in your 19 office? 20 <b>A. I try to have them work as much as possible on</b> 21 <b>billable work, but obviously I have one attorney that</b> 22 <b>pretty much only has worked on one pro bono case.</b> 23 Q. Which attorney is that? 24 <b>A. His name is David Weber. It's a pro bono case</b> 25 <b>for an indigenous person from Central America, and he</b></p>	<p style="text-align: right;">Page 20</p> <p>1 <b>is someone who requires mentoring and I have to closely</b> 2 <b>supervise them.</b> 3 Q. Do you supervise attorneys who are of counsel? 4 <b>A. No. Generally, no.</b> 5 Q. Do you review the work product of attorneys who 6 are of counsel before it's filed? 7 <b>A. No.</b> 8 Q. Do you review the work product of associates 9 before it's filed? 10 <b>A. I do.</b> 11 Q. What's the role of Mr. O'Donnell at the firm? 12 <b>A. Mr. O'Donnell is of counsel and he does his own</b> 13 <b>cases and I don't supervise him.</b> 14 Q. Have you ever awarded any attorneys in your 15 office bonuses? 16 <b>A. No.</b> 17 Q. Would it be possible for you to award attorneys 18 in your office bonuses? 19 <b>A. Only if we made money. We would have to have</b> 20 <b>the funds to award a bonus to somebody.</b> 21 Q. And the funds to award bonus would have to come 22 through some sort of litigation victory; is that correct? 23 Let me ask that again. Actually, never mind. 24 Have you ever used expert witnesses in cases in 25 which you've been an attorney of record?</p>
<p style="text-align: right;">Page 19</p> <p>1 <b>basically spends all his time on it, and the client</b> 2 <b>doesn't have any money.</b> 3 Q. The other four attorneys in your firm, what are 4 their titles? 5 <b>A. They're either an associate attorney or of</b> 6 <b>counsel.</b> 7 Q. How many associates do you have? 8 <b>A. Right now I think we have three that we term</b> 9 <b>"associate."</b> 10 Q. And how many of counsel? 11 <b>A. I think I said five working for me. So let's</b> 12 <b>see. Two of counsel.</b> 13 Q. So there are six attorneys counting yourself at 14 the firm? 15 <b>A. Yeah. There's five that work for me and there's</b> 16 <b>me.</b> 17 Q. How many attorneys are identified on the firm's 18 web page? 19 <b>A. I don't know. I have to look at the web page.</b> 20 <b>I haven't paid attention to the web page.</b> 21 Q. What's the difference between an associate and 22 of counsel? 23 <b>A. Generally, of counsel means they are more</b> 24 <b>experienced. They have practiced on their own. They are</b> 25 <b>not necessarily subject to as much supervision. Associate</b></p>	<p style="text-align: right;">Page 21</p> <p>1 <b>A. Yes.</b> 2 Q. How have you used expert witnesses? 3 <b>A. To testify about conditions in a country, to</b> 4 <b>testify about whether someone would suffer persecution if</b> 5 <b>they went back to their country.</b> 6 Q. What's your understanding of the role that an 7 expert witness plays in litigation? 8 <b>A. Well, an expert would testify about the matters</b> 9 <b>to which they have particular expert knowledge.</b> 10 Q. Does an expert -- to your understanding, does an 11 expert witness need to have a certain area of expertise? 12 <b>A. Yes.</b> 13 Q. How can a person acquire expertise in a certain 14 area? 15 <b>A. They could acquire it through experience,</b> 16 <b>through study, through past jobs that they've held.</b> 17 Q. You mentioned you are both the owner and the 18 managing partner of Cascadia Cross Border Law Group. 19 Is there a difference between being owner and 20 managing partner? 21 <b>A. Not at my firm.</b> 22 Q. Are you using those terms interchangeably? 23 <b>A. I would use those terms interchangeably.</b> 24 Q. When you say that you're the owner and the 25 managing partner, is it fair to say that you are using</p>



<p style="text-align: right;">Page 22</p> <p>1 those terms interchangeably?</p> <p>2 <b>A. Yes. At the moment, yes. I don't have a</b></p> <p>3 <b>partner, so...</b></p> <p>4 Q. Ms. Stock, are you currently married?</p> <p>5 <b>A. I am.</b></p> <p>6 Q. To whom are you married?</p> <p>7 <b>A. I'm married to Neil Thomas O'Donnell.</b></p> <p>8 Q. <b>How long have you been married to Mr. O'Donnell?</b></p> <p>9 <b>A. I believe 26 years. Little more than 26 years.</b></p> <p>10 Q. How did you meet Mr. O'Donnell?</p> <p>11 <b>A. I met Mr. O'Donnell in Alaska, mountain climbing</b></p> <p>12 <b>in a snow storm on Arkose Ridge in the Talkeetna</b></p> <p>13 <b>mountains.</b></p> <p>14 Q. How long did you date Mr. O'Donnell before you</p> <p>15 married him?</p> <p>16 <b>A. Four years.</b></p> <p>17 Q. So is it fair to say that you've known</p> <p>18 Mr. O'Donnell since 1988?</p> <p>19 <b>A. That's correct.</b></p> <p>20 Q. Do you have any children through your marriage</p> <p>21 to Mr. O'Donnell?</p> <p>22 <b>A. I do.</b></p> <p>23 Q. How many?</p> <p>24 <b>A. One child.</b></p> <p>25 Q. And how old is that child?</p>	<p style="text-align: right;">Page 24</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Other than retirement investments, do you have</p> <p>3 any other joint investments with Mr. O'Donnell?</p> <p>4 <b>A. We own a house together.</b></p> <p>5 Q. Anything else?</p> <p>6 <b>A. We have a cabin together in McCarthy, Alaska,</b></p> <p>7 <b>and land.</b></p> <p>8 Q. Other than the cabin and the house, do you have</p> <p>9 any other joint investments with Mr. O'Donnell?</p> <p>10 <b>A. We have mutual funds in a mutual fund, but I</b></p> <p>11 <b>think technically -- yeah, we're joint on some of them.</b></p> <p>12 MR. O'DONNELL: I'd ask you not to speculate --</p> <p>13 <b>THE WITNESS: Okay.</b></p> <p>14 MR. O'DONNELL: -- because you're speculating</p> <p>15 incorrectly.</p> <p>16 <b>THE WITNESS: All right. Well, I don't pay a</b></p> <p>17 <b>whole lot of attention to retirement because I'm not</b></p> <p>18 <b>planning to retire anytime soon. So I shouldn't be</b></p> <p>19 <b>speculating.</b></p> <p>20 BY MR. SWINTON:</p> <p>21 Q. You mentioned your house is a joint investment.</p> <p>22 Does this mean that you and Mr. O'Donnell both</p> <p>23 own your house?</p> <p>24 <b>A. We both own our house, yes.</b></p> <p>25 Q. Where is that house?</p>
<p style="text-align: right;">Page 23</p> <p>1 <b>A. 21.</b></p> <p>2 Q. Do you have a joint bank account with</p> <p>3 Mr. O'Donnell?</p> <p>4 <b>A. I do.</b></p> <p>5 Q. Do you have joint retirement investments with</p> <p>6 Mr. O'Donnell?</p> <p>7 <b>A. I think I should say yes to that. I have</b></p> <p>8 <b>separate ones also, but joint is probably accurate. I</b></p> <p>9 <b>don't know. It's complicated.</b></p> <p>10 Q. Well, I don't need to get into a lot of details,</p> <p>11 but are there some joint retirement investments that you</p> <p>12 have that are joint with Mr. O'Donnell?</p> <p>13 <b>A. I'd have to ask Mr. O'Donnell.</b></p> <p>14 Q. And you have to ask Mr. O'Donnell -- why would</p> <p>15 you have to ask Mr. O'Donnell?</p> <p>16 <b>A. Because I haven't looked at all of my retirement</b></p> <p>17 <b>accounts. I know some of my retirement is totally</b></p> <p>18 <b>separate from Mr. O'Donnell and he has his own retirement.</b></p> <p>19 <b>And to answer that question accurately, honestly I would</b></p> <p>20 <b>have to go back and look at everything.</b></p> <p>21 Q. Would it be fair to say that Mr. O'Donnell</p> <p>22 manages the finances in your marriage?</p> <p>23 <b>A. No. But we have a lot of stuff that's separate.</b></p> <p>24 Q. Are you aware of what retirement investments you</p> <p>25 have that are your own that would not be joint?</p>	<p style="text-align: right;">Page 25</p> <p>1 <b>A. In Anchorage, Alaska.</b></p> <p>2 Q. What's the approximate value of that house?</p> <p>3 <b>A. I don't know. I'd be speculating. I haven't</b></p> <p>4 <b>looked at the property assessment lately.</b></p> <p>5 Q. What was the purchase price for the house?</p> <p>6 <b>A. I don't recall.</b></p> <p>7 Q. Do you ever work from your house?</p> <p>8 <b>A. Occasionally.</b></p> <p>9 Q. How often is occasionally?</p> <p>10 <b>A. I sometimes do work on the evenings or weekends,</b></p> <p>11 <b>you know, by e-mail. I try not to work at the house. I</b></p> <p>12 <b>try to work mainly at the office.</b></p> <p>13 Q. And you mentioned that Mr. O'Donnell works from</p> <p>14 home.</p> <p>15 Does he work from home every day that he works?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Why does he not use the office space?</p> <p>18 <b>A. You'd have to ask him.</b></p> <p>19 Q. When he works from home, where does he work in</p> <p>20 your home?</p> <p>21 <b>A. He has a study.</b></p> <p>22 Q. So he set up a home office?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Do you have a home office of your own in your</p> <p>25 house?</p>

<p>Page 26</p> <p>1     <b>A. No.</b></p> <p>2     Q. Do you ever use his home office?</p> <p>3     <b>A. No.</b></p> <p>4     Q. You've never worked from his home office?</p> <p>5     <b>A. No.</b></p> <p>6     Q. Do you discuss the cases you're handling with</p> <p>7 Mr. O'Donnell?</p> <p>8     <b>A. Not typically. He's busy with his own cases.</b></p> <p>9     Q. But you have discussed cases that you have with</p> <p>10 Mr. O'Donnell; is that correct?</p> <p>11    <b>A. What do you mean by "discussed"?</b></p> <p>12    Q. Has he ever talked to you about the claims that</p> <p>13 he's bringing in a case?</p> <p>14    <b>A. He doesn't talk about the claims. He talks</b></p> <p>15 <b>about, I'm going to Denver on the Safeway case. In fact,</b></p> <p>16 <b>this morning was the first time I heard what the Safeway</b></p> <p>17 <b>case was about, other than casual conversation.</b></p> <p>18    Q. Do you inform him about the content and</p> <p>19 substance of your cases that you're handling?</p> <p>20    <b>A. Not unless it's something he's also handling.</b></p> <p>21    Q. So you never discuss the substance of cases</p> <p>22 you're handling with your husband, who is also of counsel</p> <p>23 in your law firm?</p> <p>24    <b>A. I do if it's a case that we're working on</b></p> <p>25 <b>together. You know, if we're co-counsel in a particular</b></p>	<p>Page 28</p> <p>1     <b>A. Not as far as I know. He just joined our firm</b></p> <p>2 <b>relatively recently.</b></p> <p>3     Q. Is it fair to say that you don't discuss the</p> <p>4 substance of cases with Mr. O'Donnell unless you're</p> <p>5 co-counsel with him?</p> <p>6     <b>A. Well I'm an expert in this particular case and I</b></p> <p>7 <b>have discussed my expert report with him and so that.</b></p> <p>8     Q. Is this case, the Tiwari case, the only case</p> <p>9 where you've discussed the substance of the case that</p> <p>10 either you or Mr. O'Donnell are handling?</p> <p>11    <b>A. No. Occasionally we might have a husband-and-</b></p> <p>12 <b>wife conversation about a case discussing the substance of</b></p> <p>13 <b>the case, but it's not anything extensive.</b></p> <p>14    Q. So is it fair to say that, in your capacity as</p> <p>15 managing partner of the firm, you've never discussed a</p> <p>16 case with Mr. O'Donnell that he's handling, the substance</p> <p>17 of a case?</p> <p>18    <b>A. What do you mean by "substance"?</b></p> <p>19    Q. I guess, yeah, that's --</p> <p>20    <b>A. I mean, we have conversations like, I'm handling</b></p> <p>21 <b>a case, I'm going to X city to do a deposition. What's</b></p> <p>22 <b>the case about? He might tell me something about it. You</b></p> <p>23 <b>know, I might run into one of his clients at the airport</b></p> <p>24 <b>and they say hello to me and we talk about what the case</b></p> <p>25 <b>was that they handled. So I don't think it's fair to say</b></p>
<p>Page 27</p> <p>1 case, I might talk to him -- I would talk to him about it.</p> <p>2 But the vast majority of cases I'm handling, he wouldn't</p> <p>3 have any interest in, he wouldn't -- same as me and</p> <p>4 Safeway. I don't know anything about the Safeway case and</p> <p>5 it's not something that -- there's not enough hours in a</p> <p>6 day to talk about all your cases.</p> <p>7     Q. Are there cases in which you're co-counsel with</p> <p>8 Mr. O'Donnell?</p> <p>9     <b>A. Yes.</b></p> <p>10    Q. How many?</p> <p>11    <b>A. Actually, no.</b></p> <p>12    <b>THE WITNESS: I think I'm not co-counsel with</b></p> <p>13 <b>you in anything right now.</b></p> <p>14    <b>A. I have been in the past.</b></p> <p>15    Q. Do you recall how many cases you've been</p> <p>16 co-counsel with Mr. O'Donnell in the past?</p> <p>17    <b>A. No. I used to work at Atkinson, Conway and</b></p> <p>18 <b>Gagnon a long time ago.</b></p> <p>19    Q. How about, thinking only of Cascadia Cross</p> <p>20 Border Law Group, have you ever served as co-counsel with</p> <p>21 Mr. O'Donnell in any cases?</p> <p>22    <b>A. I don't believe I'm co-counsel with him in any</b></p> <p>23 <b>cases right now.</b></p> <p>24    Q. Have you ever been in your time at Cascadia</p> <p>25 Cross Border?</p>	<p>Page 29</p> <p>1 I never discuss the substance of any case with him,</p> <p>2 because I have normal husband-and-wife type conversations</p> <p>3 about cases. And I have had that throughout the course of</p> <p>4 my marriage.</p> <p>5     Q. That's fair, Ms. Stock. Let me phrase the</p> <p>6 question a little bit differently. I'm interested in</p> <p>7 communications between you and Mr. O'Donnell only, not</p> <p>8 with the clients of a case.</p> <p>9     Have you ever discussed -- in cases in which you</p> <p>10 and Mr. O'Donnell are not co-counsel, have you ever</p> <p>11 discussed case strategy for a case that Mr. O'Donnell is</p> <p>12 handling?</p> <p>13    <b>A. I think I'm going to object to that. I think</b></p> <p>14 <b>that would be common interest privilege.</b></p> <p>15    Q. What's the common interest privilege?</p> <p>16    <b>A. Two attorneys handling a case that have a common</b></p> <p>17 <b>interest and they would assert a privilege about</b></p> <p>18 <b>discussing strategy.</b></p> <p>19    Q. Okay. I'm actually not interested in the</p> <p>20 content of the strategy. I'm just asking a yes-or-no</p> <p>21 question whether you've discussed strategy in case with</p> <p>22 Mr. O'Donnell in a case he's handling where you are not</p> <p>23 co-counsel.</p> <p>24    <b>A. It's possible that I have discussed strategy in</b></p> <p>25 <b>a case with Mr. O'Donnell in a case that he's handling and</b></p>

<p style="text-align: right;">Page 30</p> <p>1 I'm not.</p> <p>2 Q. In a case that you're handling where you're the</p> <p>3 attorney of record and you're not co-counsel with</p> <p>4 Mr. O'Donnell, have you discussed case strategy with</p> <p>5 Mr. O'Donnell?</p> <p>6 <b>A. No. I wouldn't discuss it with him because he</b></p> <p>7 <b>wouldn't be able to provide me with -- no.</b></p> <p>8 Q. He wouldn't be able to provide you with what?</p> <p>9 <b>A. He doesn't do immigration law.</b></p> <p>10 Q. Does the firm have a specialty practice?</p> <p>11 <b>A. Alaska doesn't have specialties.</b></p> <p>12 Q. Does the firm specialize in any sort of area of</p> <p>13 law?</p> <p>14 <b>A. We concentrate in the area of immigration,</b></p> <p>15 <b>national security, military law, citizenship law. But</b></p> <p>16 <b>that's my practice. That's not Mr. O'Donnell's.</b></p> <p>17 Q. What does it mean to concentrate in those areas?</p> <p>18 <b>A. Alaska doesn't recognize specialties.</b></p> <p>19 Q. So when the firm concentrates in those areas,</p> <p>20 what does that mean?</p> <p>21 <b>A. That means if somebody calls us up and tells us</b></p> <p>22 <b>they want to hire us to handle a divorce case, we tell</b></p> <p>23 <b>them we don't do divorce cases.</b></p> <p>24 Q. Who would tell -- an individual seeking</p> <p>25 representation, who would convey the message that the firm</p>	<p style="text-align: right;">Page 32</p> <p>1 in this case was filed in February 2017?</p> <p>2 <b>A. I believe so, but I'd have to check the date. I</b></p> <p>3 <b>know it was more than a year ago.</b></p> <p>4 Q. Did you have any knowledge of the intent to file</p> <p>5 the lawsuit before it was filed?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. When did you first become aware of an intent to</p> <p>8 file the lawsuit in this case?</p> <p>9 <b>A. I can't recall exactly when I became aware of</b></p> <p>10 <b>that.</b></p> <p>11 Q. Would it have been in January 2017?</p> <p>12 <b>A. You know, sometime before it was filed.</b></p> <p>13 Q. Had you spoken with any of the plaintiffs in</p> <p>14 this case before the complaint was filed?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Do you recall how many you spoke with?</p> <p>17 <b>A. No.</b></p> <p>18 Q. What did you speak to them about?</p> <p>19 <b>A. Various plaintiffs had contacted me about the</b></p> <p>20 <b>discrimination that they were experiencing, and they were</b></p> <p>21 <b>upset about it, and when they told me what was happening,</b></p> <p>22 <b>I realized that what the government was doing to them was</b></p> <p>23 <b>patently unconstitutional and illegal and in violation of</b></p> <p>24 <b>Department of Defense equal opportunity policy. So I</b></p> <p>25 <b>encouraged them to seek counsel and I eventually sent them</b></p>
<p style="text-align: right;">Page 31</p> <p>1 doesn't do a particular type of case?</p> <p>2 <b>A. My executive assistant.</b></p> <p>3 Q. Is the executive assistant a lawyer? Is the</p> <p>4 executive assistant an attorney?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Would the executive assistant convey that</p> <p>7 message without consulting any attorneys in the firm?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. So the executive attorney has authorization to</p> <p>10 say -- I'm sorry. The executive assistant has</p> <p>11 authorization to inform an individual that the firm</p> <p>12 doesn't do certain types of cases?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. How does the executive assistant know what types</p> <p>15 of cases the firm would handle?</p> <p>16 <b>A. Because the executive assistant works under my</b></p> <p>17 <b>control and direction.</b></p> <p>18 Q. So you mentioned that Mr. O'Donnell doesn't do</p> <p>19 immigration work. Actually, let me move on from that.</p> <p>20 I want to talk to you about the current case,</p> <p>21 Tiwari versus Mattis, and your involvement with the case.</p> <p>22 When did you first become aware of the Tiwari</p> <p>23 case?</p> <p>24 <b>A. When it was filed.</b></p> <p>25 Q. Does it sound correct to you that the complaint</p>	<p style="text-align: right;">Page 33</p> <p>1 <b>to Mr. O'Donnell.</b></p> <p>2 Q. Why did you send them to Mr. O'Donnell?</p> <p>3 <b>A. Because he had advised me that he was interested</b></p> <p>4 <b>in filing a lawsuit.</b></p> <p>5 Q. Okay. Had he advised you that he was interested</p> <p>6 in filing this particular lawsuit?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. How did he become aware of the facts that form</p> <p>9 the basis of the claims in this case?</p> <p>10 <b>A. I believe because he talked to the people that</b></p> <p>11 <b>were upset about their discriminatory treatment.</b></p> <p>12 Q. How did Mr. O'Donnell -- do you know how</p> <p>13 Mr. O'Donnell -- I'm sorry. Did you refer any of those</p> <p>14 individuals to Mr. O'Donnell?</p> <p>15 <b>A. I think I just mentioned I asked them to call</b></p> <p>16 <b>him, said he might be interested in helping them. I</b></p> <p>17 <b>didn't have the capacity to assist them.</b></p> <p>18 Q. Why didn't you have the capacity?</p> <p>19 <b>A. Because my law firm was running on a pro bono</b></p> <p>20 <b>basis, essentially, and I didn't have the capacity to</b></p> <p>21 <b>handle a large class-action lawsuit.</b></p> <p>22 Q. Is it fair to say then that Mr. O'Donnell was</p> <p>23 part of a firm that had the resources to handle this type</p> <p>24 of case?</p> <p>25 <b>A. That's correct.</b></p>

<p style="text-align: right;">Page 34</p> <p>1 Q. If you were part of a firm that had the</p> <p>2 resources to handle this case, would you have handled it?</p> <p>3 A. No.</p> <p>4 Q. Why not?</p> <p>5 A. Because I thought it needed somebody that didn't</p> <p>6 have my expert knowledge of the case. I was going to need</p> <p>7 to be an expert in the case.</p> <p>8 Q. So did you think before the case was filed that</p> <p>9 you would need to be an expert in the case?</p> <p>10 A. Yes.</p> <p>11 Q. Why did you think that?</p> <p>12 A. Because very few people have expert knowledge of</p> <p>13 the MAVNI program, and the case involved the MAVNI</p> <p>14 program.</p> <p>15 Q. Are you an attorney of record in the Tiwari</p> <p>16 case?</p> <p>17 A. No.</p> <p>18 Q. What is your understanding of your role in this</p> <p>19 case?</p> <p>20 A. I'm an expert witness.</p> <p>21 Q. As an expert witness, what is your understanding</p> <p>22 of your role -- let me start over.</p> <p>23 What is your understanding of what you will do</p> <p>24 in this case as an expert witness?</p> <p>25 A. Provide expert testimony.</p>	<p style="text-align: right;">Page 36</p> <p>1 for 28 years. I'm very familiar with the Army. I worked</p> <p>2 in security and counterterrorism and taught national</p> <p>3 security law at West Point. Been intimately familiar with</p> <p>4 the military and intelligence activities. So I believe I</p> <p>5 can provide objective testimony.</p> <p>6 Q. Do you believe that you have any biases that</p> <p>7 would affect your testimony in this case?</p> <p>8 A. Biases? I have a strong sense of the value of</p> <p>9 diversity in the military and I don't like people being</p> <p>10 mistreated based on their national origin. And I taught</p> <p>11 constitutional law, so I guess I'm biased in favor of the</p> <p>12 law.</p> <p>13 Q. So let me go through those.</p> <p>14 You mentioned the value of diversity in the</p> <p>15 military. Do you consider that to be a bias then?</p> <p>16 A. Well, what do you mean by "bias"?</p> <p>17 Q. What's your understanding of "bias"?</p> <p>18 A. Well, I think you're asking the question, so</p> <p>19 you've got to tell me what you think "bias" means.</p> <p>20 Q. My question now is, what's your understanding of</p> <p>21 "bias"?</p> <p>22 A. I thought you meant like tendencies to go a</p> <p>23 certain way on an issue maybe or something. I don't know.</p> <p>24 Q. Okay. We can use that definition.</p> <p>25 A. I mean, my background and training is in law and</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. Do you conceive of your role only to provide</p> <p>2 expert testimony at trial?</p> <p>3 A. Yes. And before trial. I provided an expert</p> <p>4 report and I'm here at a deposition.</p> <p>5 Q. Do you consider yourself to have been a</p> <p>6 consultant in this case?</p> <p>7 A. What do you mean by "consultant"?</p> <p>8 Q. A litigation consultant.</p> <p>9 A. No.</p> <p>10 Q. So is it fair to say that your understanding of</p> <p>11 your role as an expert witness is to provide testimony in</p> <p>12 the form of affidavits and declaration, to submit an</p> <p>13 expert report, and to testify at trial?</p> <p>14 A. Correct.</p> <p>15 Q. Do you believe that you can provide objective</p> <p>16 testimony in this case?</p> <p>17 A. I do.</p> <p>18 Q. Why do you think that?</p> <p>19 A. I'm an attorney and I'm familiar with the facts</p> <p>20 of the MAVNI program, and I have been trained, I guess, to</p> <p>21 see things from both sides.</p> <p>22 Q. So you think -- is it fair to say that you</p> <p>23 believe that as an attorney you're able to see issues from</p> <p>24 the same side?</p> <p>25 A. Not just that. I was a military police officer</p>	<p style="text-align: right;">Page 37</p> <p>1 constitutional law and national security law, and I also</p> <p>2 am familiar with equal opportunity policies in the Army,</p> <p>3 and I've been trained that -- leadership values,</p> <p>4 diversity. That's one of the strong lessons I guess I've</p> <p>5 learned over the years in the Army.</p> <p>6 Q. Have you attended any court appearances in this</p> <p>7 case?</p> <p>8 A. In this case, yes. I was at one hearing in</p> <p>9 Seattle.</p> <p>10 Q. Was that hearing in March 2018?</p> <p>11 A. If -- I don't remember exactly when it was, but</p> <p>12 I remember going down to Seattle. And earlier you said</p> <p>13 that you saw me at that hearing. So if that was in March,</p> <p>14 I'll take your word for it.</p> <p>15 Q. Why did you attend that hearing?</p> <p>16 A. Because it was a hearing where there were going</p> <p>17 to be arguments made, and I felt I needed to hear what</p> <p>18 those arguments were.</p> <p>19 Q. Why did you need to hear what the arguments</p> <p>20 were?</p> <p>21 A. Because I was an expert in the case.</p> <p>22 Q. How would those arguments affect your ability to</p> <p>23 provide expert testimony in this case?</p> <p>24 A. Well, to provide expert testimony, you have to</p> <p>25 understand what people are arguing in the case. I needed</p>



<p style="text-align: right;">Page 38</p> <p>1 to understand what the government was arguing, what 2 evidence the government was presenting, what the 3 plaintiffs were arguing, what evidence the plaintiffs were 4 presenting. 5 Q. Was there something about attending the argument 6 in person that you thought you could obtain that you 7 couldn't get from reading the pleadings in the case or the 8 transcript of the argument? 9 A. Yes. 10 Q. What's that? 11 A. I could observe the demeanor of the individuals. 12 Q. What individuals were you particularly 13 interested in observing? 14 A. The attorneys, the witnesses. 15 Q. Were there any witnesses at that hearing? 16 A. I don't believe any of the plaintiffs testified, 17 but there was one of the plaintiffs that attended the 18 hearing and was introduced by the plaintiffs' counsel. 19 Q. How does -- and when you said observing the 20 demeanor of attorneys, were you referring to observing 21 Mr. O'Donnell? 22 A. All the attorneys. 23 Q. So you were interested in observing 24 Mr. O'Donnell as well as the attorneys for the defendants? 25 A. Yeah. I wanted to basically see what they were</p>	<p style="text-align: right;">Page 40</p> <p>1 able to get from reading his affidavits and declarations 2 in the case? 3 A. Well, it's pretty well accepted that you can't 4 tell whether somebody has a military bearing unless you 5 physically meet them. You can't tell whether they have a 6 military bearing from a transcript. 7 Q. Did you sit at counsel's table with 8 Mr. O'Donnell during the argument? 9 A. I did. 10 Q. Why did you sit at counsel's table? 11 A. He invited me to sit there. 12 Q. Did you talk to Mr. O'Donnell about the case 13 during breaks in the hearing? 14 A. No. I don't believe there were any breaks in 15 the hearing. I don't remember a break in the hearing. 16 Q. If I represent to you that the Court took recess 17 for about 20 or 30 minutes and came back and heard further 18 argument, do you have any reason to doubt that? 19 A. Okay. No, I remember that now. But I think I 20 talked mainly to Raj Chettri at that point. 21 Q. Did you talk to Mr. O'Donnell at all during that 22 break about the argument? 23 A. No. 24 Q. Did you take notes during the hearing? 25 A. Yes.</p>
<p style="text-align: right;">Page 39</p> <p>1 going to make as arguments, how they were going to present 2 the arguments, what they were arguing, and I wanted to 3 become familiar with the claims in the case and what the 4 government was saying about the claims. 5 Q. But again, why could you not get that 6 information from reading the parties' briefs and the court 7 transcript? 8 A. Because you can't always get the full flavor of 9 what happens at a court hearing by just looking at a bare 10 transcript. It's really important to have people testify 11 in person and not always have them testify by way of a 12 transcript. 13 Q. What did you learn from observing that 14 argument -- since there were no witnesses that testified, 15 what did you learn from observing that argument that you 16 wouldn't have learned from reading the briefs or reading 17 the court transcript? 18 A. I got to observe one of the plaintiffs at 19 firsthand, and I observed that he was a very accomplished 20 individual with an excellent military demeanor who would 21 make a great military officer, but because of the 22 unconstitutional DoD policies, he was being prevented from 23 living up to his full potential in the United States Army. 24 Q. What was it about interacting with him in person 25 that allowed you to see that, that you wouldn't have been</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Why did you take notes? 2 A. To remember what I heard. 3 Q. Do those notes help you function as an expert 4 witness in this case? 5 A. Yes. 6 Q. How so? 7 A. They help me remember what I heard. 8 Q. Have you reviewed the transcript of the argument 9 from that hearing? 10 A. Not today, no. 11 Q. Have you ever reviewed it? 12 A. I don't believe so. 13 Q. Did you pass Mr. O'Donnell any notes during the 14 hearing? 15 A. Not that I recall. 16 Q. Did you have to travel to the hearing in order 17 to attend? 18 A. I did. 19 Q. How did you pay for your travel expenses? 20 A. I used the firm credit card. 21 Q. We talked before -- you mentioned before that 22 you had had communications with some or all of the 23 plaintiffs in this case before the complaint was filed; is 24 that correct? 25 A. Some of them.</p>

<p>Page 42</p> <p>1 Q. How many have you communicated with?</p> <p>2 A. I don't know.</p> <p>3 Q. Have you ever had -- have you ever had written</p> <p>4 communication with any of the plaintiffs?</p> <p>5 A. Yes.</p> <p>6 Q. Have you ever spoken to any of them by phone?</p> <p>7 A. Yes.</p> <p>8 Q. Have you ever met with any of them in person?</p> <p>9 A. Yes.</p> <p>10 Q. So let's take this one by one.</p> <p>11 With respect to written communications, have you</p> <p>12 had any written communication with Kirti Tiwari?</p> <p>13 A. As far as I know, the only written communication</p> <p>14 I've had with Kirti Tiwari is occasional Facebook message.</p> <p>15 I'm not absolutely sure about that, though.</p> <p>16 Q. Do you recall who initiated that communication?</p> <p>17 A. Kirti.</p> <p>18 Q. Do you know why he reached out to you?</p> <p>19 A. Well, he's reached out to me about a number of</p> <p>20 things. You have to ask him why he did it.</p> <p>21 Q. Do you recall when he first reached out to you?</p> <p>22 A. No.</p> <p>23 Q. What have you discussed in writing with Kirti</p> <p>24 Tiwari?</p> <p>25 A. I can't recall.</p>	<p>Page 44</p> <p>1 A. Cindy Jebb.</p> <p>2 Q. Who is Cindy Jebb?</p> <p>3 A. She's the dean at the United States Military</p> <p>4 Academy at West Point, New York.</p> <p>5 Q. Did Ms. Jebb refer Mr. Makau to you?</p> <p>6 A. Colonel Jebb.</p> <p>7 Q. Did Colonel Jebb refer Mr. Makau to you?</p> <p>8 A. She did.</p> <p>9 Q. Why did she do that?</p> <p>10 A. She thought he needed legal assistance.</p> <p>11 Q. Did you provide him with legal assistance?</p> <p>12 A. I wasn't in a position at that time to provide</p> <p>13 him with legal assistance, but I attempted to help him by</p> <p>14 referring him to other people and providing expert help to</p> <p>15 the Army JAG officers who were trying to help him.</p> <p>16 Q. Have you ever provided Mr. Makau with legal</p> <p>17 assistance?</p> <p>18 A. Yes.</p> <p>19 Q. What type of legal assistance?</p> <p>20 A. Immigration assistance.</p> <p>21 Q. What type of immigration assistance?</p> <p>22 A. General advice about U.S. immigration law.</p> <p>23 Q. Have you represented him in any immigration</p> <p>24 proceedings?</p> <p>25 A. No.</p>
<p>Page 43</p> <p>1 Q. Do you recall discussing the filing of a lawsuit</p> <p>2 in this case with Mr. Tiwari?</p> <p>3 A. No.</p> <p>4 Q. Did you refer Mr. Tiwari to Mr. O'Donnell?</p> <p>5 A. I may have. I don't recall.</p> <p>6 Q. Have you had written correspondence with Seung</p> <p>7 Yoon Yang?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Have you had written correspondence with</p> <p>10 Amandeep Singh?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Duncan Makau?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall when you first had written</p> <p>15 communication with Duncan Makau?</p> <p>16 A. Years ago.</p> <p>17 Q. How long ago is years ago?</p> <p>18 A. I had communication with Duncan Makau when I was</p> <p>19 the project officer for the MAVNI program at the Pentagon.</p> <p>20 Q. When was that?</p> <p>21 A. Sometime between 2007 and 2010. And then a</p> <p>22 couple years after that I had multiple written</p> <p>23 communications with Duncan Makau.</p> <p>24 Q. Who initiated that first communication between</p> <p>25 Mr. Makau and yourself?</p>	<p>Page 45</p> <p>1 Q. Have you been compensated for your work for</p> <p>2 Mr. Makau?</p> <p>3 A. I can't recall.</p> <p>4 Q. Is it possible that you were compensated for</p> <p>5 your work for Mr. Makau?</p> <p>6 A. It's possible that he paid some sum of money at</p> <p>7 some point to pay for some of the advice I gave him when I</p> <p>8 was a private attorney years ago.</p> <p>9 Q. Did you ever provide legal advice to Kirti</p> <p>10 Tiwari?</p> <p>11 A. Not that I know of.</p> <p>12 Q. When was your last communication with</p> <p>13 Mr. Tiwari?</p> <p>14 A. I don't know.</p> <p>15 Q. Was it in the last six months?</p> <p>16 A. I don't think so. It's possible that he posts</p> <p>17 messages on Facebook. I might have commented on a message</p> <p>18 or something.</p> <p>19 Q. When was your last communication with Mr. Makau?</p> <p>20 A. More than a year ago. I believe it was about</p> <p>21 the time I told him to go talk to Mr. O'Donnell.</p> <p>22 Q. So was your last communication with Mr. Makau</p> <p>23 before this lawsuit was filed?</p> <p>24 A. Yes.</p> <p>25 Q. Did Mr. O'Donnell learn about this case -- I'm</p>



<p style="text-align: right;">Page 46</p> <p>1 sorry. Did Mr. O'Donnell learn about the allegations</p> <p>2 underlying the claims in this case from you?</p> <p>3 <b>A. I believe he learned them from talking to the</b></p> <p>4 <b>people I referred to him.</b></p> <p>5 Q. Have you ever had any written communication with</p> <p>6 Valdetta Mehanja?</p> <p>7 <b>A. Not that I'm -- not that I can recall.</b></p> <p>8 Q. Have you ever spoken to Ms. Mehanja?</p> <p>9 <b>A. Not that I can recall.</b></p> <p>10 Q. Have you ever had any written communication with</p> <p>11 Rui Zhang?</p> <p>12 <b>A. Not that I can recall.</b></p> <p>13 Q. Have you ever spoken to Mr. Zhang by phone or in</p> <p>14 person?</p> <p>15 <b>A. Not that I can recall.</b></p> <p>16 Q. Have you ever had any written communication with</p> <p>17 Raj Chettri?</p> <p>18 <b>A. Not that I can recall. I've had in-person</b></p> <p>19 <b>communication with him.</b></p> <p>20 Q. Have you ever spoken to him by phone?</p> <p>21 <b>A. Not that I can recall.</b></p> <p>22 Q. What was your in-person -- or when was your</p> <p>23 in-person communication with Mr. Chettri?</p> <p>24 <b>A. At the hearing in March that you just mentioned.</b></p> <p>25 Q. Was that the only time you've spoken to</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Have you ever had any written communication with</p> <p>2 Mengmeng Cai?</p> <p>3 <b>A. Not that I can recall.</b></p> <p>4 Q. Have you ever spoken to Mr. Cai either in person</p> <p>5 or on the phone?</p> <p>6 <b>A. Not that I can recall.</b></p> <p>7 Q. Have you ever had any written communication with</p> <p>8 Sandeep Singh?</p> <p>9 <b>A. It's possible. That name is more familiar to me</b></p> <p>10 <b>than the other ones.</b></p> <p>11 Q. Do you recall if this communication would have</p> <p>12 been through Facebook?</p> <p>13 <b>A. I don't. I have hundreds and hundreds of MAVNI</b></p> <p>14 <b>soldiers contacting me all the time, and my memory of</b></p> <p>15 <b>every single name is not perfect.</b></p> <p>16 Q. Do you recall what you would have discussed with</p> <p>17 Mr. Singh?</p> <p>18 <b>A. No. MAVNIs contact me for all sorts of issues,</b></p> <p>19 <b>ranging from their pay problems to being discriminated</b></p> <p>20 <b>against, to how to get promoted, to how to wear a uniform,</b></p> <p>21 <b>to how do I get my mother a visa. And I apologize, but I</b></p> <p>22 <b>don't remember every single name of every single MAVNI</b></p> <p>23 <b>that has contacted me.</b></p> <p>24 Q. Do you recall if you've had any communication</p> <p>25 with Mr. Singh by phone or in person?</p>
<p style="text-align: right;">Page 47</p> <p>1 Mr. Chettri in person?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. What did you talk about with Mr. Chettri?</p> <p>4 <b>A. Talked about his Army career, talked about what</b></p> <p>5 <b>it was like at his duty station, talked about what he</b></p> <p>6 <b>wanted to do in the Army, talked about his educational</b></p> <p>7 <b>background.</b></p> <p>8 Q. Did you discuss this case with Mr. Chettri?</p> <p>9 <b>A. I discussed the fact that he was a plaintiff in</b></p> <p>10 <b>the case.</b></p> <p>11 Q. Have you ever provided legal advice to</p> <p>12 Mr. Chettri?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Have you ever had any written communication with</p> <p>15 Pingyang Liu?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Have you ever spoken to Pingyang Liu either by</p> <p>18 phone or in person?</p> <p>19 <b>A. Not that I can recall.</b></p> <p>20 Q. Have you had any written communication with</p> <p>21 Blerta Mehanja?</p> <p>22 <b>A. Not that I can recall.</b></p> <p>23 Q. Have you ever spoken with Ms. Mehanja either by</p> <p>24 phone or in person?</p> <p>25 <b>A. Not that I can recall.</b></p>	<p style="text-align: right;">Page 49</p> <p>1 <b>A. I don't recall anything specific, no.</b></p> <p>2 Q. Do you recall having any written correspondence</p> <p>3 with Fleury Ngantchop Keigni Di Satchou?</p> <p>4 <b>A. Oh, boy. I don't have any specific recollection</b></p> <p>5 <b>of anything.</b></p> <p>6 Q. Do you believe that you may have had some sort</p> <p>7 of written communication with Mr. Keigni Di Satchou?</p> <p>8 <b>A. Well, I may have had communication with -- you</b></p> <p>9 <b>know, I've been to meetings with lots of people and talked</b></p> <p>10 <b>to a lot of people on the phone. I've had Facebook</b></p> <p>11 <b>interactions with people. So it's possible. I just don't</b></p> <p>12 <b>remember it.</b></p> <p>13 Q. So you mentioned Facebook a few times.</p> <p>14 Is it fair to say that you've communicated with</p> <p>15 plaintiffs in this case via Facebook?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Is that through the Facebook Messenger function?</p> <p>18 <b>A. It could have been a lot of different ways.</b></p> <p>19 <b>There's places where people post things and then they</b></p> <p>20 <b>message me or they message me directly.</b></p> <p>21 Q. Are you part of the MAVNI -- are you aware of a</p> <p>22 MAVNI group that exists on Facebook?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Are you part of that group?</p> <p>25 <b>A. Yes.</b></p>

<p style="text-align: right;">Page 50</p> <p>1 Q. Is that a closed group?</p> <p>2 <b>A. I believe so. I think we have to approve people</b></p> <p>3 <b>to join it.</b></p> <p>4 Q. And you said "we have to approve people to join</p> <p>5 it."</p> <p>6 Do you have control over that group?</p> <p>7 <b>A. I'm one of the administrators.</b></p> <p>8 Q. What does it mean to be an administrator?</p> <p>9 <b>A. I approve people to be a member of the group and</b></p> <p>10 <b>I can kick them out if they violate the group rules.</b></p> <p>11 Q. Did you start the group?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Who started it?</p> <p>14 <b>A. James Hwang.</b></p> <p>15 Q. When did you become an administrator?</p> <p>16 <b>A. When I was a MAVNI project officer years ago.</b></p> <p>17 Q. Were you asked to be an administrator?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Who asked you?</p> <p>20 <b>A. Somebody in the Army.</b></p> <p>21 Q. Who in the Army asked you?</p> <p>22 <b>A. I don't recall.</b></p> <p>23 Q. Have you provided -- let me ask this a different</p> <p>24 way.</p> <p>25 Have members of the MAVNI Facebook group asked</p>	<p style="text-align: right;">Page 52</p> <p>1 Did those individuals contact you via the MAVNI</p> <p>2 Facebook group about those allegations?</p> <p>3 <b>A. You know, I don't -- I mean, they contact me all</b></p> <p>4 <b>different ways.</b></p> <p>5 Q. How do they contact you?</p> <p>6 <b>A. They send an e-mail, they call on the phone,</b></p> <p>7 <b>they might have messaged me through different social</b></p> <p>8 <b>media.</b></p> <p>9 Q. Are there other social media MAVNI groups other</p> <p>10 than the MAVNI Facebook group?</p> <p>11 <b>A. Well, Facebook is a type of social media.</b></p> <p>12 <b>There's LinkedIn, WhatsApp, Facebook Messenger. People</b></p> <p>13 <b>text message. They send e-mails to my firm's website.</b></p> <p>14 <b>They call the firm on the phone. They e-mail the firm.</b></p> <p>15 <b>They're e-mailing me at my Army address.</b></p> <p>16 Q. I'm specifically interested in MAVNI groups on</p> <p>17 social media applications.</p> <p>18 Is there a LinkedIn MAVNI group?</p> <p>19 <b>A. I believe so.</b></p> <p>20 Q. Are you part of that group?</p> <p>21 <b>A. I don't know if I'm currently part of that</b></p> <p>22 <b>group.</b></p> <p>23 Q. Have you been part --</p> <p>24 <b>A. There's lots and lots of different groups out</b></p> <p>25 <b>there, and people add me to groups without telling me.</b></p>
<p style="text-align: right;">Page 51</p> <p>1 you for legal advice -- let me ask a different question.</p> <p>2 What is -- what do people discuss in the MAVNI</p> <p>3 Facebook group?</p> <p>4 <b>A. Everything.</b></p> <p>5 Q. Do people ask legal questions in the MAVNI</p> <p>6 Facebook group?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Do people ask for legal advice in the MAVNI</p> <p>9 Facebook group?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Are there any other attorneys who are</p> <p>12 administrators?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Have you provided legal advice to individuals in</p> <p>15 response to requests for legal advice via the MAVNI</p> <p>16 Facebook group?</p> <p>17 <b>A. We try not to. We have a warning on there that</b></p> <p>18 <b>they're not supposed to ask for legal advice, and we kind</b></p> <p>19 <b>of stop them from doing it if they ask for legal advice.</b></p> <p>20 <b>Because they ask for legal advice from other MAVNIs, and</b></p> <p>21 <b>the other MAVNIs aren't competent to give them legal</b></p> <p>22 <b>advice.</b></p> <p>23 Q. You mentioned individuals came to you with</p> <p>24 allegations that form the basis of the claims in this</p> <p>25 case.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Who adds you to groups?</p> <p>2 <b>A. People in the Army, people who are other</b></p> <p>3 <b>lawyers, people who are MAVNIs. MAVNIs are creating their</b></p> <p>4 <b>own groups and then adding me to the group. The Army has</b></p> <p>5 <b>groups. The Army has added me -- people in the Army have</b></p> <p>6 <b>added me to groups. The recruiting stations.</b></p> <p>7 Q. Ms. Stock, have you ever had any written</p> <p>8 communication with Kaushal Wadhvani?</p> <p>9 <b>A. Can I look at the name?</b></p> <p>10 Q. Not on my outline. It's spelled K-a-u-s-h-a-l.</p> <p>11 Last name is W-a-d-h-w-a-n-i?</p> <p>12 <b>A. I am -- don't recall specifically having any</b></p> <p>13 <b>written communication with that person, no.</b></p> <p>14 Q. Do you recall having any communication by phone</p> <p>15 or in person with Mr. Wadhvani?</p> <p>16 <b>A. I don't have any specific recollection of that,</b></p> <p>17 <b>no.</b></p> <p>18 Q. Have you had any written communication with</p> <p>19 Angelita Acebes?</p> <p>20 <b>A. I believe I have. But I don't recall when or</b></p> <p>21 <b>what the nature of the communication was. But that name</b></p> <p>22 <b>is ringing a bell.</b></p> <p>23 Q. Do you recall whether you had written</p> <p>24 communication with Ms. Acebes before the filing of the</p> <p>25 complaint in the case?</p>

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1     **A. I don't recall the date or when I had the**  
2     **communication.**  
3     Q. Do you recall having any telephonic or in-person  
4     communication with Mr. Acebes?  
5     **A. I don't specifically recall it, but that name**  
6     **leads me to believe that I probably did, just because it's**  
7     **a more familiar name.**  
8     Q. Have you had any written communication with  
9     Kusuma Nio?  
10    **A. Yes.**  
11    Q. Do you recall when the first time was that you  
12    had written communication with Mr. Nio?  
13    **A. I don't recall the first time.**  
14    Q. When was the last time you had written  
15    communication with Mr. Nio?  
16    **A. I don't recall the last time, but it was many**  
17    **months ago.**  
18    Q. What did you discuss with Mr. Nio in these  
19    communications?  
20    **A. I don't recall. Probably I referred him to**  
21    **Mr. O'Donnell.**  
22    Q. Other than referring him to Mr. O'Donnell, did  
23    you discuss anything else with him?  
24    **A. I think I discussed the Stars and Stripes**  
25    **article he was in.**

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1     Q. Have you had any communication by phone with  
2     Mr. Nio?  
3     **A. Can't recall. It's possible.**  
4     Q. Have you ever met with Mr. Nio in person?  
5     **A. No.**  
6     Q. Have you had any written communication with Qi  
7     Xiong? First name is spelled Q-i. Last name is  
8     X-i-o-n-g.  
9     **A. She goes by Eva.**  
10    Q. Okay.  
11    **A. Yes.**  
12    **Q. When was the first time you had written**  
13    **communication with Eva Xiong?**  
14    **A. She's one of my clients.**  
15    Q. In what case are you representing her?  
16    **A. An immigration case. I should say former**  
17    **client.**  
18    Q. Is the case -- is the case over?  
19    **A. Yes.**  
20    Q. What were the claims in that case?  
21    **A. There weren't any claims. It was an immigration**  
22    **case.**  
23    Q. What was the -- was this brought in immigration  
24    court?  
25    **A. No.**

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1     **Q. What was the jurisdiction? Where was the case**  
2     **brought?**  
3     **A. United States Citizenship and Immigration**  
4     **Services.**  
5     Q. What was the proceeding?  
6     **A. A naturalization proceeding.**  
7     Q. Did you receive compensation for your work in  
8     that case?  
9     **A. Yes.**  
10    Q. For how many years was Eva Xiong your client?  
11    **A. A couple of years.**  
12    Q. Is that fair to say she was your client for two  
13    years?  
14    **A. I can't recall the exact dates.**  
15    Q. Was it more than one year?  
16    **A. Yes.**  
17    Q. Was it more than two years?  
18    **A. Probably. I mean, there was additional**  
19    **representation relating to her husband.**  
20    Q. In what type of proceeding did you represent her  
21    husband?  
22    **A. Adjustment of status.**  
23    Q. Is that proceeding before a USCIS as well?  
24    **A. Yes.**  
25    Q. Did you receive compensation for your work on

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1     that case?  
2     **A. Yes.**  
3     Q. Have you represented Ms. Xiong or her husband in  
4     any cases other than the two USCIS proceedings we just  
5     discussed?  
6     **A. No.**  
7     Q. When did those cases resolve?  
8     **A. I can't recall exactly. Whenever she**  
9     **naturalized.**  
10    Q. Was it in two thousand -- do you recall if it  
11    was in 2016?  
12    **A. I don't recall. I would have to look at her**  
13    **certificate to see.**  
14    Q. Do you recall the number of plaintiffs that you  
15    referred to Mr. O'Donnell before the complaint in this  
16    case was filed?  
17    **A. I don't recall the number.**  
18    Q. Was it more than five?  
19    **A. I don't recall.**  
20    Q. If you had to estimate, what would you say?  
21    **A. I wouldn't want to guess.**  
22    Q. Would you estimate that it's more than five?  
23    **A. Like I said, I wouldn't want to guess.**  
24    Q. Was it more than one?  
25    **A. More than one.**

<p style="text-align: right;">Page 58</p> <p>1 Q. Do you think it was more than ten?</p> <p>2 <b>A. I don't think so. But like I said, I don't want</b></p> <p>3 <b>to speculate on that. I know it was more than one.</b></p> <p>4 Q. Do you recall when you first referred an</p> <p>5 individual to Mr. O'Donnell?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Are you aware that plaintiffs have been added to</p> <p>8 this case after the original complaint was filed?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Did you refer any of the plaintiffs who had been</p> <p>11 added to the case to Mr. O'Donnell?</p> <p>12 <b>A. I would be speculating. He made his own</b></p> <p>13 <b>decisions, I think, about that. So I don't know the</b></p> <p>14 <b>timing.</b></p> <p>15 <b>Can we get some water?</b></p> <p>16 MR. SWINTON: Why don't we go off the record and</p> <p>17 we'll take a break.</p> <p>18 (Off the record)</p> <p>19 MR. SWINTON: Before we go on the break, I just</p> <p>20 want to reiterate the Department of Justice's view that</p> <p>21 it's inappropriate to have conversations about the</p> <p>22 substance of the deposition between counsel and the</p> <p>23 witness.</p> <p>24 <b>THE WITNESS: I'm not leaving the room, so...</b></p> <p>25 MR. SWINTON: Just wanted to put that on the</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. SWINTON: Did you review the citations that</p> <p>2 Mr. Dugan gave you at the Verdugo deposition?</p> <p>3 MR. O'DONNELL: I reviewed the last one he gave</p> <p>4 me. It's the only one I wrote down.</p> <p>5 MR. SWINTON: The transcript reflects, I think,</p> <p>6 three or four authorities that he cited. If you have</p> <p>7 contrary authority, we would be happy to review it. Until</p> <p>8 you provide us with that, then our request that you don't</p> <p>9 discuss the content stands, and I think we'll address this</p> <p>10 at the end of the deposition.</p> <p>11 BY MR. SWINTON:</p> <p>12 Q. Ms. Stock, I wanted to go back to your role at</p> <p>13 Cascadia Cross Border Law Group for just a little bit.</p> <p>14 You said as owner you have certain responsibilities in</p> <p>15 your position as the owner/managing partner.</p> <p>16 Do you make employment decisions for the firm?</p> <p>17 <b>A. I do.</b></p> <p>18 Q. Do you make hiring decisions?</p> <p>19 <b>A. I do.</b></p> <p>20 Q. Do you make decisions about who to terminate?</p> <p>21 <b>A. I do.</b></p> <p>22 Q. Have you ever had to terminate anybody?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Was that person a lawyer?</p> <p>25 <b>A. No.</b></p>
<p style="text-align: right;">Page 59</p> <p>1 record.</p> <p>2 <b>THE WITNESS: I just wanted to get water.</b></p> <p>3 <b>That's all. You can keep going.</b></p> <p>4 MR. SWINTON: I'd actually like to take a break</p> <p>5 as well. So let's go off the record and take a ten-minute</p> <p>6 break.</p> <p>7 (Recess taken)</p> <p>8 BY MR. SWINTON:</p> <p>9 Q. We're back on the record.</p> <p>10 Mr. Stock, during the break did you discuss the</p> <p>11 deposition with Mr. O'Donnell?</p> <p>12 MR. O'DONNELL: I will object and instruct the</p> <p>13 witness not to answer.</p> <p>14 MR. SWINTON: Again, Mr. O'Donnell, could you</p> <p>15 just state the basis of your objection?</p> <p>16 MR. O'DONNELL: It's communication between my</p> <p>17 expert and myself.</p> <p>18 MR. SWINTON: And do you have any authority for</p> <p>19 your objection?</p> <p>20 MR. O'DONNELL: I'm not going to brief it here,</p> <p>21 but I do.</p> <p>22 MR. SWINTON: Do you have any citations you can</p> <p>23 provide us with?</p> <p>24 MR. O'DONNELL: You want to bring it up with the</p> <p>25 Court, I'll provide them at that point.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. And the people who have come on and joined the</p> <p>2 staff of the firm since you started it in 2013, were you</p> <p>3 responsible for -- or did you have input on the hiring of</p> <p>4 those individuals?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Does anybody else have input on hiring</p> <p>7 decisions?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Did you have input on the hiring of</p> <p>10 Mr. O'Donnell?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Does anyone else at the firm have the authority</p> <p>13 to fire an employee of Cascadia Cross Border Law Group?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Does anybody else at the firm have the authority</p> <p>16 to hire an employee for the firm?</p> <p>17 <b>A. Subject to my approval.</b></p> <p>18 Q. Thank you. I'm interested in talking a little</p> <p>19 bit more about your involvement in this case.</p> <p>20 Have you reviewed any drafts of the plaintiffs'</p> <p>21 filings in this case before they were filed?</p> <p>22 <b>A. I have occasionally reviewed them for typos,</b></p> <p>23 <b>yes.</b></p> <p>24 Q. Did you provide any feedback on the drafts,</p> <p>25 other than typos?</p>



<p>Page 62</p> <p>1 A. Factual. I've corrected -- I'm an expert so I 2 notice things that are factually incorrect and I correct 3 those. 4 Q. Do you have an example of a factual correction 5 that you made? 6 A. Sure. For example, I would read Mr. Arendt's 7 affidavit and note factual errors in Mr. Arendt's 8 statements. Then I would make sure that those factual 9 errors in Mr. Arendt's statements didn't carry over into 10 Mr. O'Donnell's briefs. 11 Q. Did you review a draft of the original complaint 12 in this case before it was filed? 13 A. I may have, yes. 14 Q. Did you review a draft of the first amended 15 complaint in this case before it was filed? 16 A. Yes. I did review that. 17 Q. Did you review a draft of the second amended 18 complaint before it was filed? 19 A. I don't think I did. 20 Q. The operative complaint in this case right now 21 is the third amended complaint. 22 Did you review a draft of the third amended 23 complaint before it was filed? 24 A. I don't think I saw it before it was filed. I 25 think I saw it after it was filed.</p>	<p>Page 64</p> <p>1 summary judgment before it was filed in this case? 2 A. I probably did because that would have had 3 factual information in it. So I think I probably would 4 have reviewed that. 5 Q. Other than typo -- what do you mean by typos? 6 When you said you reviewed for typos, what are you 7 referring to? 8 A. Well, the common one is the acronym Military 9 Accessions Vital to the National Interest. The correct 10 acronym is MAVNI, Mike Alpha Victor November India, and 11 Mr. O'Donnell has a regular habit of transposing the V and 12 the N and calling it MANVI, which is not correct. This is 13 also a common error in the government's filings. And it 14 bothers me that people get the acronym wrong, so I was 15 constantly correcting that back to the correct acronym, 16 which is MAVNI, not MANVI. 17 Q. Would you review for any other typos or just 18 MAVNI? 19 A. Yeah. I generally review for factual errors, 20 misspellings of people's names, grammatical errors. I'd 21 just read the factual section and if I saw something 22 wrong, I'd highlight it. 23 Q. Would you do anything more than highlight an 24 error that you saw? 25 A. Yeah. I'd correct it, like MAVNI, and I would</p>
<p>Page 63</p> <p>1 Q. Did you review the first motion for a 2 preliminary injunction that was filed by the plaintiffs in 3 this case? 4 A. I reviewed it after it was filed, yes. 5 Q. Did you review it before it was filed? 6 A. I may have reviewed it for typos. Can't recall. 7 Q. Did you review a draft of the second motion for 8 preliminary injunction before it was filed in this case? 9 A. I cannot recall if I reviewed a draft of that 10 particular document. I know I reviewed it after it was 11 filed. 12 Q. Did you review a draft of the motion for class 13 certification in this case before it was filed? 14 A. No. 15 Q. Did you review a draft of the plaintiffs' 16 opposition to the government's motion to dismiss before it 17 was filed? 18 A. I can't recall exactly which documents I 19 reviewed in draft versus after they were filed. I know I 20 sometimes reviewed different documents to check for typos 21 and for factual errors, but if the document didn't have 22 anything factual or if it was just a legal, it's not 23 likely that I reviewed it before it got filed. I didn't 24 review every single thing. 25 Q. Did you review a draft of plaintiffs' motion for</p>	<p>Page 65</p> <p>1 put "change throughout." 2 Q. Have you proposed language on draft filings? 3 A. No. 4 Q. Have you proposed that Mr. O'Donnell include 5 certain facts when you review the drafts of any filings? 6 A. If he needed to correct a fact, I might, yeah. 7 I mean, there's a lot of acronyms in the military and 8 there's a lot of procedures and techniques and everything, 9 and one of the striking things about the government 10 filings is often there are factual errors in those. So I 11 would have to explain those as the expert to 12 Mr. O'Donnell, that the government has these facts wrong 13 and you need to understand the correct facts. 14 Q. Did you review plaintiffs' request for 15 production of documents from the Department of Defense 16 before they were served on the government? 17 A. I'd have to look at the document to tell you 18 whether I looked at it. Probably. 19 Q. Do you recall suggesting that plaintiffs request 20 the production of any certain documents from the 21 Department of Defense? 22 A. I don't recall doing that, but it's possible. 23 Q. So it's possible that you requested that 24 plaintiffs request certain documents from the government? 25 A. Well, I'm an expert, so I'm familiar with</p>

<p style="text-align: right;">Page 66</p> <p><b>1 different facts of the MAVNI program and I might have</b>  <b>2 suggested things. That's possible.</b>  <b>3 Q. Did you review the drafts of the interrogatories</b>  <b>4 that plaintiffs served on the government in this case?</b>  <b>5 A. I don't believe so. It's possible, though.</b>          6 Q. Did you review plaintiffs' responses to the          7 government's interrogatories that were served on the          8 plaintiffs in this case, before they were served on the          9 government?  <b>10 A. No.</b>          11 Q. Did you review the government's request for          12 production of documents in this case?  <b>13 A. I reviewed my subpoena.</b>          14 Q. And the request for production of documents that          15 I'm referring to is the request for documents that were          16 served on plaintiffs in the winter or spring of 2018. Did          17 you review --  <b>18 A. I don't recall reviewing that.</b>          19 Q. Did you help Mr. O'Donnell prepare for the          20 deposition of Curtis Kingsland?  <b>21 A. No.</b>          22 Q. Did you help Mr. O'Donnell prepare for the          23 deposition of Daniel Purtell?  <b>24 A. No.</b>          25 Q. Did you help Mr. O'Donnell prepare for the</p>	<p style="text-align: right;">Page 68</p> <p><b>1 A. No.</b>          2 Q. Did you suggest any questions that he should ask          3 at the depositions?  <b>4 A. No.</b>          5 Q. Have you ever spoken to Valdeta Mehanja about          6 her deposition?  <b>7 A. No.</b>          8 Q. Did you review the transcripts of the          9 depositions of Curtis Kingsland?  <b>10 A. Yes.</b>          11 Q. And the transcript of the deposition of Daniel          12 Purtell?  <b>13 A. Yes.</b>          14 Q. And the transcript for the McSwain deposition?  <b>15 A. Yes.</b>          16 Q. And Mehanja?  <b>17 A. Yes.</b>          18 Q. And Dandridge?  <b>19 A. Yes.</b>          20 Q. And White?  <b>21 A. Yes.</b>          22 Q. Why did you review those transcripts?  <b>23 A. Because I'm an expert in the case and I wanted</b>  <b>24 to see what they were saying and I wanted to be familiar</b>  <b>25 with the facts of the case.</b></p>
<p style="text-align: right;">Page 67</p> <p>1 deposition of Latrice McSwain?  <b>2 A. No.</b>          3 Q. Did you help Mr. O'Donnell prepare for the          4 deposition of Valdeta Mehanja?  <b>5 A. No.</b>          6 Q. Did you help Mr. O'Donnell prepare for the          7 deposition of Mary Dandridge?  <b>8 A. No.</b>          9 Q. Did you help Mr. O'Donnell prepare for the          10 deposition of Terrell White?  <b>11 A. No.</b>          12 Q. Were you aware that Mr. O'Donnell would be          13 taking a deposition of Curtis Kingsland before it was          14 taken?  <b>15 A. I knew he was flying to D.C. to do depositions.</b>  <b>16 I don't think I knew the names of the particular people he</b>  <b>17 was depositing.</b>          18 Q. Do you recall what Mr. O'Donnell told you about          19 those depositions?  <b>20 A. I don't recall, but -- you know. He told me he</b>  <b>21 flew to D.C. and he did a whole bunch of depositions.</b>          22 Q. Did he tell you about the -- this is just a          23 yes-or-no question.          24 Did he tell you what questions he intended to          25 ask at a deposition?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. We talked before about your attendance at an          2 argument in court in March 2018, and you mentioned the          3 importance of seeing somebody in person versus reviewing          4 the transcripts.          5 Why didn't you attend the depositions of these          6 individuals?  <b>7 A. I was extremely busy at work. I didn't have the</b>  <b>8 time to fly to D.C. and take a whole week, and I couldn't</b>  <b>9 afford it.</b>          10 Q. Did you help Mr. O'Donnell in any way prepare          11 for the deposition of Raj Chettri?  <b>12 A. I didn't -- I did not, no.</b>          13 Q. Did you help Mr. O'Donnell in any way prepare          14 for the deposition of Seung Yoon Yang?  <b>15 A. No.</b>          16 Q. Did you help Mr. O'Donnell in any way prepare          17 for the deposition of Kirti Tiwari?  <b>18 A. No.</b>          19 Q. Did you help Mr. O'Donnell in any way prepare          20 for the deposition of Amandeep Singh?  <b>21 A. No.</b>          22 Q. Have you reviewed the deposition transcript of          23 Raj Chettri?  <b>24 A. I have not.</b>          25 Q. Have you reviewed the deposition transcript of</p>



<p style="text-align: right;">Page 70</p> <p>1 Seung Yoon Yang?</p> <p>2 <b>A. No.</b></p> <p>3 Q. You reviewed the deposition transcript of Kirti</p> <p>4 Tiwari?</p> <p>5 <b>A. Don't recall reviewing that one, no.</b></p> <p>6 Q. Have you reviewed the deposition transcript of</p> <p>7 Amandeep Singh?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Did you help Mr. O'Donnell in any way prepare</p> <p>10 his pretrial disclosures that were served on the</p> <p>11 government last week?</p> <p>12 <b>A. I provided him with an expert report.</b></p> <p>13 Q. Have you seen the pretrial disclosures that</p> <p>14 Mr. O'Donnell sent to the government last week?</p> <p>15 <b>A. I have not.</b></p> <p>16 Q. Ms. Stock, are you aware of other litigation in</p> <p>17 federal district court that's being brought by MAVNI</p> <p>18 soldiers?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. We said before that -- you said the acronym</p> <p>21 MAVNI stands for the Military Accessions Vital to the</p> <p>22 National Interest program within the military.</p> <p>23 So as we go forward in the deposition today and</p> <p>24 say MAVNI, I assume we can agree that that's what the</p> <p>25 acronym stands for?</p>	<p style="text-align: right;">Page 72</p> <p>1 <b>drawing a blank. There's too many names. Sorry. I can</b></p> <p>2 <b>look it up.</b></p> <p>3 Q. Are there any others, current cases?</p> <p>4 <b>A. Current cases. There are some that haven't been</b></p> <p>5 <b>filed yet that are in draft. But they haven't been filed</b></p> <p>6 <b>yet.</b></p> <p>7 Q. So I have six current cases.</p> <p>8 <b>A. Let me see. There's another one. Vaghela.</b></p> <p>9 Q. Do you know that individual's first name?</p> <p>10 <b>A. Hansal.</b></p> <p>11 Q. You mentioned the Gampala case.</p> <p>12 In what district court is that case proceeding?</p> <p>13 <b>A. California, Northern District.</b></p> <p>14 Q. The Zhu case?</p> <p>15 <b>A. Seattle, Western District.</b></p> <p>16 Q. The Vang case?</p> <p>17 <b>A. The which one?</b></p> <p>18 Q. Vang.</p> <p>19 <b>A. The which one?</b></p> <p>20 Q. I heard it as Vang.</p> <p>21 <b>A. Wang. Northern District, California.</b></p> <p>22 Q. I don't know if I have this one. The Peter --</p> <p>23 <b>A. Texas.</b></p> <p>24 Q. Sorry. What was that?</p> <p>25 <b>A. San Antonio.</b></p>
<p style="text-align: right;">Page 71</p> <p>1 <b>A. Yes, we can.</b></p> <p>2 Q. I just wanted to make that clear for the</p> <p>3 transcript.</p> <p>4 <b>A. Right. What concerns me is the mispronunciation</b></p> <p>5 <b>of the acronym by numerous people within and without the</b></p> <p>6 <b>Department of Defense. They call it MANVI, which is not</b></p> <p>7 <b>the correct acronym. It's MAVNI.</b></p> <p>8 Q. Okay. I was just making sure that the</p> <p>9 transcript reflected what we both understand the acronym</p> <p>10 to mean.</p> <p>11 <b>A. Right.</b></p> <p>12 Q. So the other cases in federal district court</p> <p>13 that are being brought by MAVNI soldiers, are you an</p> <p>14 attorney of record in any of those cases?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Which cases are you the attorney -- an attorney</p> <p>17 of record?</p> <p>18 <b>A. Let's see. Praveen Gampala. Xilong Zhu. Qi</b></p> <p>19 <b>Wang. Peter Mathenge. Vicki Thacker. And these are just</b></p> <p>20 <b>current cases, right, not ones that we've dismissed?</b></p> <p>21 Q. Let's start with current.</p> <p>22 <b>A. There's another one. I'm drawing a blank on it,</b></p> <p>23 <b>so let me think about it. The Yang case, Seattle.</b></p> <p>24 Q. What's that individual's first name?</p> <p>25 <b>A. It will come to me in a minute. I'm just</b></p>	<p style="text-align: right;">Page 73</p> <p>1 Q. What was that individual's last name?</p> <p>2 <b>A. Mathenge.</b></p> <p>3 Q. How do you spell Mathenge?</p> <p>4 <b>A. M-a-t-h-e-n-g-e. Mike Alpha November (sic)</b></p> <p>5 <b>Tango Hotel Echo November Golf Echo.</b></p> <p>6 Q. The Thacker case?</p> <p>7 <b>A. Boston.</b></p> <p>8 Q. And you said the Yang case is in --</p> <p>9 <b>A. Seattle.</b></p> <p>10 Q. -- the Western District of Washington?</p> <p>11 And then the Vaghela Case?</p> <p>12 <b>A. Texas, Dallas.</b></p> <p>13 Q. Is San Antonio, that's -- which district court</p> <p>14 is that?</p> <p>15 <b>A. I think it's Western District, Texas.</b></p> <p>16 Q. So I have seven cases -- current cases in which</p> <p>17 you are an attorney of record that are being brought --</p> <p>18 were being brought on behalf of MAVNI soldiers?</p> <p>19 <b>A. Yep.</b></p> <p>20 Q. You mentioned that there are former cases. Do</p> <p>21 you recall how many former cases you've had that --</p> <p>22 <b>A. No. I don't recall how many exactly. I'd have</b></p> <p>23 <b>to sit down and go through my files and figure it out.</b></p> <p>24 Q. Do you think -- is it more than ten?</p> <p>25 <b>A. I don't think so.</b></p>

<p>1 Q. Do you think it's more than five?</p> <p>2 A. I can't be sure.</p> <p>3 Q. Would a fair estimate be that you've brought</p> <p>4 between five to ten cases that are now closed on behalf of</p> <p>5 MAVNI soldiers?</p> <p>6 A. It's possible, yeah.</p> <p>7 Q. The seven active cases, do those all bring the</p> <p>8 same -- present the same issue?</p> <p>9 A. No. They're different. Some of them are -- the</p> <p>10 vast majority are trying to get their American citizenship</p> <p>11 and they're stymied by these new DoD policies that prevent</p> <p>12 people from getting citizenship through military service,</p> <p>13 but some of them have breach of contract claims or other</p> <p>14 types of claims.</p> <p>15 Q. Is the defendant in all the cases the same</p> <p>16 government agency?</p> <p>17 A. Not always, no.</p> <p>18 Q. Which agencies are being sued in these --</p> <p>19 A. Sometimes it's DoD, USCIS, the Army.</p> <p>20 Q. How did you become involved in these cases?</p> <p>21 A. How did I become involved in them?</p> <p>22 Q. Uh-huh.</p> <p>23 A. Lawyers or potential plaintiffs would contact me</p> <p>24 and ask me to become involved in them.</p> <p>25 Q. Which lawyers have contacted you about these</p>	<p>Page 74</p>
<p>1 cases?</p> <p>2 A. I mean, there's an enormous number of lawyers</p> <p>3 who have contacted me about these cases. Do you want me</p> <p>4 to name them all?</p> <p>5 Q. Well, I understood you to say that you became</p> <p>6 involved in these cases because lawyers contacted you</p> <p>7 about them.</p> <p>8 Did lawyers refer you to handle these cases?</p> <p>9 A. So typically what happens is some lawyer often</p> <p>10 will call me and say they know so and so, and so and so is</p> <p>11 having a problem. For example, I mentioned earlier</p> <p>12 Colonel Jebb, Cindy Jebb. She's the dean at West Point.</p> <p>13 She's an attorney with -- former JAG. And she called me</p> <p>14 because Duncan Makau was having a legal problem and the</p> <p>15 Army wasn't able to help him.</p> <p>16 So the Army JAG attorney he'd gone to see didn't</p> <p>17 know how to help him, and so she called me and said,</p> <p>18 Duncan has a legal problem. Can you help him, Margaret?</p> <p>19 And I would talk to her about the facts of the case and I</p> <p>20 would say, he can try to find a lawyer who does this or</p> <p>21 does this or whatever to resolve the problem. And</p> <p>22 sometimes I ended up helping the person myself and</p> <p>23 sometimes I would refer them to somebody else.</p> <p>24 So it's the same sort of thing with these cases.</p> <p>25 Sometimes I refer them to an attorney locally who is</p>	<p>Page 75</p>

<p>1 willing to handle the case and I come in as like the</p> <p>2 expert, or sometimes I take the case as -- with local</p> <p>3 counsel. There's a local counsel that takes the case but</p> <p>4 I'm co-counsel with them.</p> <p>5 Q. When you say "local," when you refer them</p> <p>6 locally, does that mean you refer them to an attorney in</p> <p>7 the district where the case is being brought or someone in</p> <p>8 the Alaska?</p> <p>9 A. No. Somebody in the district where the case is</p> <p>10 being brought.</p> <p>11 Q. Okay. I just wanted to make sure --</p> <p>12 A. I'm not the only one filing these cases.</p> <p>13 There's other attorneys filing them. And sometimes</p> <p>14 another attorney wants to just take it themselves and do</p> <p>15 it themselves, and sometimes they want to do it but only</p> <p>16 if I'm willing to be their co-counsel.</p> <p>17 Q. Are you serving as an expert witness in any</p> <p>18 other current MAVNI cases other than Tiwari?</p> <p>19 A. MAVNI. No.</p> <p>20 Q. Have you ever served as an expert witness in any</p> <p>21 other MAVNI cases?</p> <p>22 A. MAVNI cases, yeah, but not -- I mean, there's a</p> <p>23 lot of MAVNI cases.</p> <p>24 Q. Okay. I'm only interested in the ones in which</p> <p>25 you've served as an expert witness.</p>	<p>Page 76</p>
<p>1 A. Okay. So yes, I've been an expert witness, but</p> <p>2 not like -- I've been a consulting expert.</p> <p>3 Q. Not a testifying expert?</p> <p>4 A. Not a testifying expert.</p> <p>5 Q. In how many cases have you been a litigation</p> <p>6 consultant, how many MAVNI cases?</p> <p>7 A. Lots of them.</p> <p>8 Q. What does that mean to be a litigation</p> <p>9 consultant?</p> <p>10 A. A lawyer who is handling the case calls me and</p> <p>11 asks me about facts in the case and my expert opinion</p> <p>12 about what's going on in the case or what the government</p> <p>13 is doing to the person.</p> <p>14 Q. Are you compensated for your work as a</p> <p>15 litigation consultant?</p> <p>16 A. Typically, no.</p> <p>17 Q. Have you been compensated for your work as</p> <p>18 litigation consultant?</p> <p>19 A. Not in any of the MAVNI cases, no.</p> <p>20 Q. Do you have any sort of contractual agreement</p> <p>21 where you're acting as litigation consultant?</p> <p>22 A. I may. In some cases I do sign those.</p> <p>23 Q. If there's no compensation involved, what -- and</p> <p>24 these are MAVNI -- do you have a contract in any case --</p> <p>25 MAVNI cases in which you've been a litigation consultant?</p>	<p>Page 77</p>

<p style="text-align: right;">Page 78</p> <p>1 <b>A. Not right now, no.</b></p> <p>2 Q. Have you been -- have you been a litigation</p> <p>3 consultant in any MAVNI cases in which there was a</p> <p>4 contract in the past?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And there was a contract between you and the</p> <p>7 plaintiff's counsel handling the case --</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. -- that involved claims on behalf of MAVNI</p> <p>10 soldiers?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Did you receive compensation for that work?</p> <p>13 <b>A. No.</b></p> <p>14 Q. What was discussed in the contract, then, if you</p> <p>15 weren't being paid?</p> <p>16 <b>A. The general agreement. Some lawyers like to</b></p> <p>17 <b>have a contract that explains in writing -- it's required</b></p> <p>18 <b>by bar rules -- who's doing what services and what the</b></p> <p>19 <b>lawyer is going to provide and what the rules are. It's a</b></p> <p>20 <b>good practice.</b></p> <p>21 Q. But you don't do it in every case? You don't</p> <p>22 have a contract in every case where you're a litigation</p> <p>23 consultant?</p> <p>24 <b>A. Well, it depends on the lawyer I'm dealing with.</b></p> <p>25 <b>I mean, I may have like a long-standing relationship with</b></p>	<p style="text-align: right;">Page 80</p> <p>1 at Fried Frank about the Kirwa case?</p> <p>2 <b>A. I think that would be privileged.</b></p> <p>3 Q. I'm not asking for the substance of the</p> <p>4 communication. I'm just asking, when is the last time you</p> <p>5 spoke to someone, any attorney at Fried Frank?</p> <p>6 <b>A. Within the last few days.</b></p> <p>7 Q. How often do you communicate with attorneys at</p> <p>8 Fried Frank about the Kirwa case?</p> <p>9 <b>A. Regularly.</b></p> <p>10 Q. What does "regularly" mean?</p> <p>11 <b>A. On a regular basis.</b></p> <p>12 Q. Do you speak to them every week?</p> <p>13 <b>A. Probably.</b></p> <p>14 Q. Do you speak to them more than one time a week</p> <p>15 about the Kirwa case?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Do you speak to them more than three times a</p> <p>18 week about the Kirwa case?</p> <p>19 <b>A. Depends on the week.</b></p> <p>20 Q. Did you refer any of the plaintiffs in the Kirwa</p> <p>21 case to Fried Frank?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. How many of the plaintiffs did you refer to</p> <p>24 Fried Frank?</p> <p>25 <b>A. I can't tell you. It's a class action, so I'm</b></p>
<p style="text-align: right;">Page 79</p> <p>1 <b>them so I don't feel like I need to have a new</b></p> <p>2 <b>contract or -- but it's good professional practice for</b></p> <p>3 <b>people to have a contract with a consulting expert.</b></p> <p>4 Q. Ms. Stock, are you aware of a case in the</p> <p>5 district court for D.C. called Kirwa versus the Department</p> <p>6 of Defense?</p> <p>7 <b>A. Yes, I'm aware of that case.</b></p> <p>8 Q. Are you an attorney of record in that case?</p> <p>9 <b>A. No, I'm not.</b></p> <p>10 Q. Do you know who represents the plaintiffs?</p> <p>11 <b>A. The Fried Frank law firm.</b></p> <p>12 Q. Have you ever spoken to any attorney at Fried</p> <p>13 Frank?</p> <p>14 <b>A. Yes, I have.</b></p> <p>15 Q. Are you a litigation consultant in that case?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Do you have any sort of contractual agreement</p> <p>18 with Fried Frank?</p> <p>19 <b>A. Yes, I do.</b></p> <p>20 Q. Are you being compensated by Fried Frank?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Are you able to tell me the terms of your</p> <p>23 contract with Fried Frank?</p> <p>24 <b>A. Common interest privilege.</b></p> <p>25 Q. When was the last time you spoke to any attorney</p>	<p style="text-align: right;">Page 81</p> <p>1 aware --</p> <p>2 Q. How many of the named plaintiffs did you refer</p> <p>3 to Fried Frank for the Kirwa case?</p> <p>4 <b>A. I can't tell you.</b></p> <p>5 Q. Do you not know?</p> <p>6 <b>A. I don't know.</b></p> <p>7 Q. Why did you refer the named plaintiffs in Kirwa</p> <p>8 to Fried Frank?</p> <p>9 <b>A. I knew Fried Frank was bringing a case and I</b></p> <p>10 <b>wasn't going to be handling a case, and so if people came</b></p> <p>11 <b>to me with a problem, I would send them to the law firm</b></p> <p>12 <b>that was going to be handling the case.</b></p> <p>13 Q. Have you ever reviewed drafts of the plaintiffs'</p> <p>14 court filings in the Kirwa case before they're filed?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Did you provide feedback on those drafts of the</p> <p>17 court filings before they were filed?</p> <p>18 <b>A. I corrected some typos one time.</b></p> <p>19 Q. Did you do anything other than correct typos?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Did you check for factual accuracy?</p> <p>22 <b>A. I did check for factual accuracy.</b></p> <p>23 Q. Did you provide any feedback on strategy of the</p> <p>24 case?</p> <p>25 <b>A. No.</b></p>

<p style="text-align: right;">Page 82</p> <p>1 Q. Have the attorneys with Fried Frank ever 2 provided you with documents that they received from the 3 government in the Kirwa case? 4 <b>A. No.</b> 5 Q. Have you ever provided any attorney -- 6 <b>A. Oh wait. I have to correct that. They provided</b> 7 <b>me with documents that were filed with the court that they</b> 8 <b>were permitted to provide to me. Put it that way.</b> 9 Q. What does that mean, permitted to provide to 10 you? 11 <b>A. Well, we had joint clients and they had received</b> 12 <b>documents from the government relating to a joint client,</b> 13 <b>and so they would provide the document.</b> 14 Q. What were those documents? 15 <b>A. What were those documents?</b> 16 Q. That Fried Frank provided to you. 17 <b>A. I think I got a report of the status of a</b> 18 <b>particular client's security screening.</b> 19 Q. Did you receive any other documents from Fried 20 Frank, documents that -- attorneys at Fried Frank received 21 from the Kirwa case? 22 <b>A. Okay. From the Kirwa case or from the</b> 23 <b>government?</b> 24 Q. So I want to focus only on the Kirwa case. 25 But did you receive from attorneys at Fried</p>	<p style="text-align: right;">Page 84</p> <p>1 Frank with information that was then used by Fried Frank 2 in the Kirwa case? 3 <b>A. I think that's like an incredibly overbroad</b> 4 <b>question.</b> 5 Q. It's a yes-or-no question. Are you able to 6 answer it? 7 <b>A. Any information or anything that was used in the</b> 8 <b>case, I gave them a copy of my book.</b> 9 Q. Have you provided any attorney at Fried Frank 10 with documents that were then used in the Kirwa case? 11 <b>A. Yes.</b> 12 Q. What documents? 13 <b>A. The documents that they're putting in their --</b> 14 <b>documents relating to their class members.</b> 15 Q. What specific documents did you provide to Fried 16 Frank that were used in the Kirwa case? 17 <b>A. For example, a CI report that one of my clients</b> 18 <b>got back, e-mails that one of my clients got.</b> 19 Q. Are you aware of a case in the district of the 20 District of Columbia called Nio versus the Department of 21 Homeland Security? 22 <b>A. Yes, I am.</b> 23 Q. Are you an attorney of record in that case? 24 <b>A. No.</b> 25 Q. Do you know who represents the plaintiffs?</p>
<p style="text-align: right;">Page 83</p> <p>1 Frank any documents that they received from the government 2 in the Kirwa case? 3 <b>A. Okay. So at one point in the Kirwa case the</b> 4 <b>judge issued a preliminary injunction, and there was a</b> 5 <b>packet of stuff that had to be given to all of the</b> 6 <b>potential plaintiffs, or members of the class in the case,</b> 7 <b>and they sent me a copy of that to distribute to my</b> 8 <b>clients. So, for example, the government had come up</b> 9 <b>with -- I mean, I don't remember exactly what the packet</b> 10 <b>was, but the government came up with a packet of stuff</b> 11 <b>that they wanted sent out to all the class members, and so</b> 12 <b>the lawyers for the class action were trying to get that</b> 13 <b>information out to all the plaintiffs in the Kirwa case</b> 14 <b>because they didn't have -- the government wouldn't give</b> 15 <b>them a list of all the plaintiffs in the class, the people</b> 16 <b>in the class. The government was refusing to give them a</b> 17 <b>list of everybody in the class.</b> 18 <b>So they put together a packet that went out</b> 19 <b>to -- they sent it out to lots of different lawyers and</b> 20 <b>said, if you have a client who is a member of the class,</b> 21 <b>this is the packet. And the same packet went out all over</b> 22 <b>the place. I mean, the Army sent it out to thousands of</b> 23 <b>people, over 4,000 people. So that's what I'm talking</b> 24 <b>about.</b> 25 Q. Have you ever provided any attorney at Fried</p>	<p style="text-align: right;">Page 85</p> <p>1 <b>A. Yes.</b> 2 Q. Who represents the plaintiffs? 3 <b>A. The Fried Frank law firm.</b> 4 Q. Are those the same attorneys who represent the 5 plaintiffs in the Kirwa case? 6 <b>A. Yes.</b> 7 Q. Have you ever spoken to any attorney at Fried 8 Frank about the Nio case? 9 <b>A. Yes.</b> 10 Q. How often do you speak to the attorneys at Fried 11 Frank about Nio? 12 <b>A. Regularly.</b> 13 Q. Do you speak to them more than two times a week? 14 <b>A. Depending on the week, that may happen.</b> 15 Q. Do you speak with them by phone? 16 <b>A. I might speak with them by phone, yes.</b> 17 Q. Have you had written communication with them? 18 <b>A. Yes.</b> 19 Q. E-mail? 20 <b>A. Yes.</b> 21 Q. Have you met with the Fried Frank attorneys in 22 person about the Nio case? 23 <b>A. I have.</b> 24 Q. And about the Kirwa case? 25 <b>A. Yes.</b></p>



<p style="text-align: right;">Page 86</p> <p>1 Q. When did you meet with the Fried Frank attorneys 2 in person? 3 <b>A. I mean, I occasionally met with them when I go 4 to D.C. I say hello. I have lunch.</b> 5 Q. When was the last time that you met with them in 6 person? 7 <b>A. I met with them a couple of weeks ago. I was in 8 Washington, D.C. I had lunch.</b> 9 Q. And what do you discuss with the Fried Frank 10 attorneys about the Nio case? 11 <b>A. I discussed the frustration that many of my 12 clients are experiencing because they can't get 13 information about the status of their background checks 14 and how the government is proceeding at a glacially slow 15 pace, hardly clearing anybody at all, and how the 16 government lawyers are often in court presenting 17 inaccurate information to the Court. And I expressed my 18 concern that the government lawyers don't seem to be 19 making accurate, factual representations to the Court in 20 the case.</b> 21 Q. Have you attended any court proceedings in the 22 Nio case? 23 <b>A. I only recall attending one a very, very long 24 time ago, and I don't remember the month, but it was 25 probably more than a year ago.</b></p>	<p style="text-align: right;">Page 88</p> <p>1 <b>which ones to make named plaintiffs, but I couldn't tell 2 you for sure. I would have to go down through the list of 3 named plaintiffs and then check and see.</b> 4 Q. Did you have any communications with any 5 attorneys at Fried Frank before the Nio case was filed? 6 <b>A. I did.</b> 7 Q. How did you first start communicating with 8 attorneys at Fried Frank about the allegations underlying 9 the Nio case? 10 <b>A. How?</b> 11 Q. Uh-huh. 12 <b>A. In person, by telephone, by e-mail.</b> 13 Q. Sure. I guess I'm wondering what is the origin 14 of the relationship that you have with the Fried Frank 15 attorneys? How did you know to start talking to them? 16 Did they reach out to you first? 17 <b>A. Let me try to remember. Well, I served on a 18 commission, the American Bar Association Commission on 19 Immigration, with an attorney from Fried Frank.</b> 20 Q. Who is that attorney from Fried Frank? 21 <b>A. Karen Grisez. And I think that's how I know the 22 firm.</b> 23 Q. When you first became aware of allegations that 24 underlie the claims in the Nio case, did you refer the 25 individuals making those allegations to Fried Frank?</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Was that in the Nio case? 2 <b>A. You know, I'm not sure. I happened to be in 3 D.C. and I heard there was a court hearing that day and I 4 went over to the courthouse and just kind of sat in the 5 back of the courtroom just to see what was going on, 6 because I just happened to know -- somebody sent me an 7 e-mail. It wasn't them. It was some MAVNI. And said 8 they were going to be in the court that day and there was 9 a court hearing and I was curious, so I went over to 10 watch.</b> 11 Q. Did you meet with any Fried Frank attorneys 12 after you observed that court session? 13 <b>A. No, not that day.</b> 14 Q. Did you tell them that you were going to be 15 attending that? 16 <b>A. I didn't.</b> 17 Q. Have you referred any of the named plaintiffs in 18 Nio to Fried Frank? 19 <b>A. Okay. I'd have to run down the list of all the 20 named plaintiffs, but I regularly get contacted by MAVNIs 21 who are having problems, and I refer everybody to the 22 Nio -- to the Fried Frank firm that has a problem that is 23 lined up with what they've brought claims about.</b> 24 <b>So I've literally had hundreds and hundreds of 25 MAVNIs contacting me, and I assume Fried Frank figured out</b></p>	<p style="text-align: right;">Page 89</p> <p>1 <b>A. Well, I generally referred them to any lawyers I 2 thought could help them. And at some point Fried Frank 3 announced that they were willing to take a pro bono case. 4 And then I started referring people to them because they 5 had indicated they were going to do a pro bono case.</b> 6 Q. Have any attorneys with Fried Frank ever 7 provided you with documents that they received from the 8 government in the Nio case? 9 <b>A. I mean, when you say documents I received from 10 the government, I monitor PACER, so...</b> 11 Q. And I'm not interested in court filings. So 12 let's talk only about noncourt filings. 13 So if there are any filings that the government 14 provides only to plaintiff's counsel in Nio, including 15 documents under seal, have you received any of those 16 documents from Fried Frank? 17 <b>A. They have not provided me with any documents 18 that are under seal.</b> 19 Q. Have you received any other documents that the 20 government provided to Fried Frank attorneys, that were 21 not public, that were provided as part of the Nio case? 22 <b>A. I've received documents that relate to my 23 particular clients.</b> 24 Q. What are those documents? 25 <b>A. Well, the government publishes a list that has</b></p>

<p style="text-align: right;">Page 90</p> <p>1 when somebody's security clearance cleared and so forth, 2 and they black out the names on the public filing, and 3 Fried Frank has confirmed to me if my client is one of 4 those names when I call them and ask them about a 5 particular client. 6 Q. Have you seen a copy of the administrative 7 record that was filed in Nio? 8 A. Have I seen it? I know I've seen parts of it. 9 I mean, I monitor PACER, and whenever there's anything on 10 PACER, if it got filed on PACER I probably have seen it. 11 Q. If I told you that there is an administrative 12 record filed in Nio that is not available via PACER, have 13 you reviewed any documents from the administrative record 14 in Nio that were not available on PACER? 15 A. Well, you'd have to tell me what was in it, 16 because I've reviewed a lot of documents. I mean, if you 17 gave me a list of all the documents in the administrative 18 record, I could go through and tell you probably if I've 19 seen that document. 20 Q. Has Fried Frank ever sent to you -- have 21 attorneys with Fried Frank ever sent to you documents that 22 you know to not be part of the -- let me start that over. 23 Have Fried Frank attorneys ever sent to you 24 nonpublic documents that you know to be part of the 25 administrative record in Nio?</p>	<p style="text-align: right;">Page 92</p> <p>1 Nio case? 2 A. I'm not counsel in the case so I don't -- I 3 mean, you're talking about like would I have signed a 4 protective order in the Nio case? 5 Q. So the document doesn't limit only attorneys, as 6 I think you know, but -- 7 A. No, I don't. I don't -- I honestly don't know 8 what you're talking about. So can you show me this 9 document so I can tell you if I signed it -- 10 Q. I don't have a copy of the form with me. 11 But I'm asking if you -- do you recall signing 12 any forms in connection with the Nio case? 13 A. Signing any forms? 14 Q. Signing. 15 A. Signing any forms. 16 Q. In connection with the Nio case. 17 A. I may -- no, I don't think I've given them an 18 affidavit. I guess I've got to know what you're talking 19 about, because I don't -- 20 Q. So my question is very simple. And it's just a 21 "yes" or "no." 22 Do you recall signing any forms in connection 23 with the Nio case? Any forms. 24 A. Any forms? Yes. I recall signing multiple 25 N-400s for people who are plaintiffs in the Nio case.</p>
<p style="text-align: right;">Page 91</p> <p>1 A. No. 2 Q. Have you ever signed any forms limiting the use 3 of information -- have you ever signed any forms limiting 4 the use of documents that you received from Fried Frank 5 that are nonpublic documents that were filed in the case? 6 A. I don't recall. 7 Q. Have you ever signed any forms limiting the use 8 of documents in which the caption at the top of the form 9 referred to the Nio case? 10 A. Can you say that again? 11 Q. Sure. So have you ever signed any forms that 12 restrict the use of documents that were exchanged in 13 connection with the Nio case? 14 A. I mean, can you clarify? What are you talking 15 about? Is there a specific document you're thinking I 16 signed? 17 Q. Yeah. There are forms -- I think you're 18 probably aware of this as an attorney -- in which, whether 19 it's in discovery and other contexts, parties will be 20 restricted for the use of how they can use documents that 21 have been exchanged between the parties. Such a form has 22 been submitted in the Nio case for use of the documents 23 contained in the administrative record. 24 Have you signed such a form limiting disclosure 25 and use of documents that were exchanged as part of the</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. Okay. Do you recall signing any forms -- 2 A. And G-28s. 3 Q. Okay. Thank you. Do you recall signing any 4 forms that govern the use of documents -- 5 A. No. 6 Q. -- in connection with the Nio case? 7 A. No, but I don't -- I'm not part of that, so I 8 wouldn't have signed any. 9 Q. Okay. That's all I wanted to know. 10 Have you ever provided any attorney at Fried 11 Frank with information to be used in the Nio case? 12 A. Yes. 13 Q. What information have you provided to Fried 14 Frank attorneys? 15 MR. O'DONNELL: I think you're asserting a 16 common interest privilege. 17 A. Yeah. I'm going to assert a common interest 18 privilege. I mean, we represent the same clients and I 19 give them things that relate to my clients. 20 Q. I'm sorry. We're still on the record. Do you 21 need to take a break, Ms. Stock? 22 A. I'm just grabbing some water because my teeth 23 are hurting. 24 Q. Have you ever provided any attorney at Fried 25 Frank with the date of birth of a MAVNI soldier?</p>



<p>Page 94</p> <p>1 A. I'm going to object to that as being common 2 interest privileged information. 3 Q. Have you ever provided any attorney at Fried 4 Frank with the A number of a MAVNI soldier? 5 A. I'm going to object to that as being common 6 interest privilege. But -- well, actually, I'll waive 7 that on a particular case. Yes, I have. I sent an e-mail 8 to the DOJ at one time and I copied Fried Frank with it. 9 Colin Kisor and I have communicated regularly by e-mail. 10 And in some cases I've been asked by Colin and by Elianis 11 Perez for the A numbers of different members of the Nio 12 case. So I provided equally to the government and to 13 Fried Frank if I'm asked for that information. But 14 Elianis Perez has repeatedly asked me for A numbers. 15 Q. Do you represent any MAVNI soldiers in cases 16 that have been brought in jurisdictions other than federal 17 district court? 18 A. Can you ask that again? 19 Q. Do you represent any MAVNI soldiers in cases 20 that have been brought somewhere other than federal 21 district court? 22 A. So in state court you're asking? 23 Q. Sure. Let's start there. 24 Have you brought any state court cases on behalf 25 of MAVNI soldiers?</p>	<p>Page 96</p> <p>1 A. Executive Office for Immigration Review 2 proceedings, ICE proceedings, Customs and Border 3 Protection, U.S. Citizenship and Immigration Services, 4 That would be it. I guess State Department. 5 Q. So starting with EO -- what's the acronym again? 6 I always forget. 7 A. Executive Office for Immigration Review. 8 Q. EOIR. What type of proceedings have you 9 represented MAVNI soldiers in before EOIR? 10 A. When their government is trying to deport the 11 MAVNI soldier. 12 Q. How many such cases have you represented MAVNI 13 soldiers in? 14 A. A handful. Less than ten. 15 Q. What type of proceedings have you represented 16 MAVNI soldiers in in cases before CVP? 17 A. There are cases where CVP is thinking about 18 excluding somebody from the country or paroling them into 19 the country, and I've represented the person in front of 20 CVP with respect to the parole or the decision to exclude 21 the person. 22 Q. In how many CVP proceedings have you represented 23 MAVNI soldiers? 24 A. I'd say less than ten. 25 Q. What type of ICE proceedings have you</p>
<p>Page 95</p> <p>1 A. I have not brought any state court cases on 2 behalf of any MAVNI soldiers, no. 3 Q. Have you represented -- I think you said before 4 that you've represented at least one MAVNI soldier and 5 her -- one plaintiff in Tiwari and her husband in a USCIS 6 proceeding. 7 Have you represented other MAVNI soldiers in 8 USCIS proceedings? 9 A. Yes. 10 Q. How many have you -- MAVNI soldiers have you 11 represented in USCIS proceedings? 12 A. Hundreds of them. 13 Q. More than 500? 14 A. I'd have to go count. I can't tell you for 15 sure. USCIS would know. 16 Q. I'm just asking if you have an estimate. 17 A. I don't have an estimate. 18 Q. Somewhere in the hundreds? 19 A. Yeah. 20 Q. Is it more than 1,000? 21 A. I'm sorry, but I'd have to go count up the 22 files. I mean, this has been going on from 2009 till now. 23 Q. Have you represented MAVNI soldiers in any 24 proceedings other than federal district court proceedings 25 and USCIS proceedings?</p>	<p>Page 97</p> <p>1 represented MAVNI soldiers? 2 A. Cases where ICE is trying to decide whether to 3 deport somebody, take them into custody, put them on an 4 ankle bracelet, send them in front of EOIR. 5 Q. In how many ICE proceedings have you represented 6 MAVNI soldiers? 7 A. I would say less than ten. 8 Q. In what type of State Department proceedings 9 have you represented MAVNI soldiers? 10 A. Contacting the State Department about a visa 11 issue. 12 Q. In how many visa issue cases -- or proceedings 13 have you represented MAVNI soldiers? 14 A. I would say less than ten. 15 Q. Are there any other types of proceedings with 16 the State Department in which you've represented MAVNI 17 soldiers? 18 A. Passport cases. 19 Q. In how many of those have you represented MAVNI 20 soldiers? 21 A. I'd say less than ten. 22 Q. So starting with the EOIR proceedings, the 23 deportation proceedings you mentioned, were any of the 24 MAVNI soldiers you represented in any of those contexts 25 plaintiffs in the Tiwari case?</p>

<p style="text-align: right;">Page 98</p> <p>1 <b>A. No.</b></p> <p>2 Q. The CVP proceedings in which you represented</p> <p>3 MAVNI soldiers, were any of those individuals plaintiffs</p> <p>4 in the Tiwari case?</p> <p>5 <b>A. No.</b></p> <p>6 Q. In the ICE proceedings that you mentioned, were</p> <p>7 any of the individuals that you represented in those</p> <p>8 proceedings plaintiffs in the Tiwari case?</p> <p>9 <b>A. No.</b></p> <p>10 Q. And in the State Department cases that you</p> <p>11 mentioned, were any of the individuals in those cases --</p> <p>12 proceedings plaintiffs in the Tiwari case?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Who?</p> <p>15 <b>A. Tracy.</b></p> <p>16 Q. And that's Xi Qiong, I believe? X-i Q-i-o-n-g?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Oh, Q-e. I'm sorry.</p> <p>19 <b>A. C-u-i.</b></p> <p>20 Q. C-u-i. Okay. What was the proceeding with</p> <p>21 Ms. Cui?</p> <p>22 <b>A. She was applying for a visa.</b></p> <p>23 Q. When did you help her with obtaining a visa?</p> <p>24 <b>A. Years ago. Before she joined the MAVNI program.</b></p> <p>25 Q. Were you able to help her get a visa?</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Sure. I just wanted to make sure I had my dates</p> <p>2 correct.</p> <p>3 <b>A. Yeah. And I represented her -- also I did her</b></p> <p>4 <b>spouse case as well. So that would have been direct</b></p> <p>5 <b>compensation from them, the couple.</b></p> <p>6 Q. And I'm sorry. That's Ms. Cui?</p> <p>7 <b>A. Cui got married, and I did the spouse's case.</b></p> <p>8 Q. And what type of proceeding was the spouse's</p> <p>9 case?</p> <p>10 <b>A. USCIS.</b></p> <p>11 Q. And you received direct compensation from the</p> <p>12 Cuis themselves for the USCIS?</p> <p>13 <b>A. The couple. I'm not sure which one of them was</b></p> <p>14 <b>paying the bill, but it was a couple.</b></p> <p>15 Q. Ms. Stock, have you heard of the American</p> <p>16 Immigration Lawyers Association?</p> <p>17 <b>A. I have.</b></p> <p>18 Q. So if I call them the AILA for the rest of the</p> <p>19 deposition, then --</p> <p>20 <b>A. That would be wrong.</b></p> <p>21 Q. Okay. How would you call it?</p> <p>22 <b>A. AILA.</b></p> <p>23 Q. Okay. So we can call it AILA, and that's</p> <p>24 referring to the American Immigration Lawyers Association?</p> <p>25 <b>A. That's correct.</b></p>
<p style="text-align: right;">Page 99</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. So you've mentioned that you've represented</p> <p>3 Ms. Cui in the State Department proceeding and you</p> <p>4 represented Ms. Xiong in the USCIS proceeding. You also</p> <p>5 represented Ms. Xiong's husband in the USCIS proceeding.</p> <p>6 Have you represented any of the other plaintiffs</p> <p>7 in the Tiwari case in any context?</p> <p>8 <b>A. No. Just those two.</b></p> <p>9 Q. Did you receive --</p> <p>10 <b>A. Well, no. Duncan. I would say I represented</b></p> <p>11 <b>Duncan.</b></p> <p>12 Q. I think you said before that you provided him</p> <p>13 legal advice --</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. -- and received compensation for that?</p> <p>16 <b>A. I don't know that I received compensation, but I</b></p> <p>17 <b>did provide him with legal advice.</b></p> <p>18 Q. Did you receive compensation for your work on</p> <p>19 behalf of Ms. Cui?</p> <p>20 <b>A. Her employer paid me, yes.</b></p> <p>21 Q. Did you represent Ms. Cui after you retired from</p> <p>22 the military?</p> <p>23 <b>A. Yeah. That was the only time I represented her.</b></p> <p>24 <b>I didn't represent any of these people before I retired</b></p> <p>25 <b>from the military.</b></p>	<p style="text-align: right;">Page 101</p> <p>1 Q. What is AILA?</p> <p>2 <b>A. AILA is an association of immigration lawyers in</b></p> <p>3 <b>the United States and elsewhere who practice U.S.</b></p> <p>4 <b>immigration law.</b></p> <p>5 Q. Are you a member of the organization?</p> <p>6 <b>A. I am.</b></p> <p>7 Q. What do you do for the organization?</p> <p>8 <b>A. I pay dues, I attend meetings, I give classes,</b></p> <p>9 <b>continuing legal education.</b></p> <p>10 Q. How long have you been a member?</p> <p>11 <b>A. I believe since 1993.</b></p> <p>12 Q. You mentioned presentations.</p> <p>13 Have you ever recorded any videos for the AILA</p> <p>14 website?</p> <p>15 <b>A. I haven't recorded them. AILA records them.</b></p> <p>16 Q. Are you aware that any videos on the AILA</p> <p>17 website are of presentations that you're giving?</p> <p>18 <b>A. It's possible.</b></p> <p>19 Q. Are you aware of any videos on the AILA website</p> <p>20 which show you speaking?</p> <p>21 <b>A. Yeah. I'm pretty sure every time I speak they</b></p> <p>22 <b>videotape it and put it on their website.</b></p> <p>23 Q. Are you aware of any videos that show you having</p> <p>24 a conversation with another official with the AILA</p> <p>25 organization?</p>

<p style="text-align: right;">Page 102</p> <p>1 <b>A. Oh, yes. I'm in multiple videos.</b></p> <p>2 Q. Why did you record those videos?</p> <p>3 <b>A. I don't record them.</b></p> <p>4 Q. Why did you participate in the recording of</p> <p>5 those videos?</p> <p>6 <b>A. Because AILA recorded them, and they asked me to</b></p> <p>7 <b>do a presentation and they record the presentations. I</b></p> <p>8 <b>didn't record it. They do.</b></p> <p>9 Q. So I understand the technology and I wanted to</p> <p>10 clarify that. I was asking why you participated in being</p> <p>11 on those videos.</p> <p>12 <b>A. Well, I'm not participating in being on the</b></p> <p>13 <b>videos. I'm giving a presentation at a continuing legal</b></p> <p>14 <b>education event, and the organization sponsoring the</b></p> <p>15 <b>continuing legal education event often records the videos</b></p> <p>16 <b>so lawyers can watch them and get credit, CLE credit for</b></p> <p>17 <b>watching the video.</b></p> <p>18 Q. Are there any videos on the AILA website of</p> <p>19 which you're aware that aren't CLE presentations in which</p> <p>20 you are featured in the video?</p> <p>21 <b>A. Probably. I mean, I've been a member since</b></p> <p>22 <b>1993, so they've been recording me since 1993, probably.</b></p> <p>23 Q. Are you in any videos on the AILA website</p> <p>24 pertaining to the MAVNI program?</p> <p>25 <b>A. I'm sure I am.</b></p>	<p style="text-align: right;">Page 104</p> <p>1 preparing to answer the questions that would be posed to</p> <p>2 you by the AILA --</p> <p>3 <b>A. No. I just answer the questions. Whatever</b></p> <p>4 <b>they'd ask me, I'd answer.</b></p> <p>5 Q. Did you discuss that one-on-one conversation</p> <p>6 about the MAVNI program that's on the AILA website with</p> <p>7 any attorneys at Fried Frank?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Do other members of AILA contact you?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Do they contact you for help in their cases?</p> <p>12 <b>A. They do.</b></p> <p>13 Q. Have you been contacted for help in MAVNI</p> <p>14 cases --</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. -- through AILA? Let me ask that again and just</p> <p>17 let me finish the whole question before you answer it.</p> <p>18 Have you been contacted by members of AILA for</p> <p>19 help in a case pertaining to a MAVNI soldier?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Have you provided advice to any other AILA</p> <p>22 members who sought help for cases involving MAVNI</p> <p>23 soldiers?</p> <p>24 <b>A. I have. I wrote a book about it. I published a</b></p> <p>25 <b>book because I was getting so many calls from people</b></p>
<p style="text-align: right;">Page 103</p> <p>1 Q. Do you know of any specific videos?</p> <p>2 <b>A. Well, there's a video of the AILA conference in</b></p> <p>3 <b>Boston that features me and the director of U.S.</b></p> <p>4 <b>Citizenship and Immigration Services having a dialogue in</b></p> <p>5 <b>front of a couple thousand lawyers. I've seen that video</b></p> <p>6 <b>numerous times and it's on YouTube.</b></p> <p>7 Q. Are you aware of a video on the AILA website in</p> <p>8 which you're having a one-on-one discussion with another</p> <p>9 person from AILA about the MAVNI program?</p> <p>10 <b>A. I'm sure there's such a video, yep.</b></p> <p>11 Q. Do you know if there are more than one such</p> <p>12 videos?</p> <p>13 <b>A. Probably, yep. I'm the subject matter expert on</b></p> <p>14 <b>the MAVNI program in the nation, so everybody is always</b></p> <p>15 <b>asking me to do interviews and videos about the MAVNI</b></p> <p>16 <b>program so I can explain what's happening with it and</b></p> <p>17 <b>what's going on with it, the litigation, the lawsuits, how</b></p> <p>18 <b>to file for citizenship for MAVNIs, what MAVNI means.</b></p> <p>19 <b>I've done -- this is over a ten-year period. I think I've</b></p> <p>20 <b>probably done lots of videos.</b></p> <p>21 Q. Did you have any help in preparing the</p> <p>22 information you presented in the one-on-one conversation</p> <p>23 about the MAVNI program that's been videotaped by AILA?</p> <p>24 <b>A. What do you mean by "help"?</b></p> <p>25 Q. Did you talk to anybody about the -- in</p>	<p style="text-align: right;">Page 105</p> <p>1 <b>asking for help that I wrote an entire book, which is now</b></p> <p>2 <b>in its second edition, that AILA published to try to help</b></p> <p>3 <b>the members with all the MAVNI cases that they're</b></p> <p>4 <b>handling. I've also written numerous other articles about</b></p> <p>5 <b>handling MAVNI cases and how to file lawsuits against the</b></p> <p>6 <b>government involving MAVNI cases.</b></p> <p>7 Q. It sounds like you'd prefer that the AILA</p> <p>8 members refer to the books and articles. Okay.</p> <p>9 So I'd like to ask you a few questions about</p> <p>10 your military service.</p> <p>11 When did you enlist in the military?</p> <p>12 <b>A. I didn't enlist.</b></p> <p>13 Q. How did you join the military?</p> <p>14 <b>A. I joined the Reserve Officer Training Corps when</b></p> <p>15 <b>I was a freshman in college. And I was commissioned two</b></p> <p>16 <b>years later through the early commissioning program as an</b></p> <p>17 <b>officer in the United States Army Reserve.</b></p> <p>18 Q. And when did you join the ROTC program? What</p> <p>19 year was that?</p> <p>20 <b>A. Freshman year in college. I just said that.</b></p> <p>21 Q. I got that. What year was that?</p> <p>22 <b>A. 1980, I believe. I have to double-check. I got</b></p> <p>23 <b>commissioned in 1982, and that was the end of my sophomore</b></p> <p>24 <b>year is when I got commissioned. So yeah, it would have</b></p> <p>25 <b>been 1980, fall of 1980.</b></p>

<p>Page 106</p> <p>1 Q. Did you always serve in the -- let me start 2 over. 3 Have you ever served as a military police 4 officer? 5 <b>A. Yes. I served my entire career as a military 6 police officer.</b> 7 Q. I think you mentioned this before, but could you 8 just remind me again. How many years did you serve as a 9 military police officer? 10 <b>A. I'm retired military police officer right now. 11 So I'm still technically holding a commission. I'm 12 retired reserve as a military police officer.</b> 13 Q. How many years before you retired did you serve 14 as a military police officer? 15 <b>A. 28 years and a few days.</b> 16 Q. What is the role of a military police officer? 17 <b>A. To protect and to serve, to perform law 18 enforcement functions, to perform combat-related functions 19 assigned to the military police, perform security, 20 military police investigations. Anything to do with law 21 and order security. We also do counterterrorism 22 intelligence work.</b> 23 Q. Let's go through those one by one. So you 24 mentioned military police investigations. 25 What type of investigations are those?</p>	<p>Page 108</p> <p>1 <b>A. It's a couple miles down the road. It's called 2 JBER now, Joint Base Elmendorf-Richardson.</b> 3 Q. Along with law and order you mentioned security. 4 Are military police investigations pertaining to 5 security different than the type of law and order 6 investigations you just mentioned? 7 <b>A. Well, military police can be responsible for 8 physical security, so that means we're responsible for 9 figuring out like a physical security plan of a base, how 10 we're going to protect the government buildings on the 11 base, you know, maybe if there's weapons on the base that 12 need kind of special protection. I mean, military police 13 protect nuclear weapons in some cases.</b> 14 <b>There's a whole range of physical security 15 functions that military police -- we guard convoys in 16 battle. We might be the back of the convoy or alongside 17 the convoy to protect the people in the convoy from the 18 insurgents. I mean, I protect helicopters on a base. If 19 they're sitting out there, there might be some military 20 police.</b> 21 <b>We also have prison role. We had a detention 22 center in Fort Richardson and I was responsible for that 23 at one point. We had prisoners in our custody. Prisoners 24 of war is one of our responsibilities.</b> 25 Q. So you mentioned that your time as a military</p>
<p>Page 107</p> <p>1 <b>A. Okay. So it could be anything relating to law 2 and order or security on a military installation. I mean, 3 you want me to kind of run down the list of stuff?</b> 4 Q. Let me ask a few more questions maybe. 5 What do you mean by law and order? So it would 6 be a military police investigation pertaining to law and 7 order? 8 <b>A. Drugs, domestic violence, murder, rape, assault, 9 child abuse, theft of items at the exchange, working with 10 local police, Alaska State Troopers, Anchorage Police 11 Department, working with other services, anti-terrorism, 12 physical security, suicides, any violations of the Uniform 13 Code of Military Justice, any civilians on post that are 14 violating the law, breaking regulations on post, checking 15 people entering the base, gate guards, fish and wildlife. 16 We investigate things like, you know, hunting 17 violations and fishing violations, and if somebody hit a 18 moose on the highway out in front of Fort Rich, we would 19 go out there and decide what to do with the moose and the 20 car. Traffic accidents, people running red lights.</b> 21 Q. As a military police officer, would you then 22 participate in these investigations? 23 <b>A. I would. I was in charge of military police 24 investigations on Fort Richardson.</b> 25 Q. Where is Fort Richardson?</p>	<p>Page 109</p> <p>1 police officer was as part of the reserve. 2 Were you always part of the reserve when you 3 were a military police officer, or were you ever on -- I 4 always forget the terminology -- full-time duty as a 5 military police officer? 6 <b>A. I was always a reserve officer, but I regularly 7 went on active duty.</b> 8 Q. How often would you go on active duty? 9 <b>A. Well, I did my first active duty tour of duty. 10 I volunteered to do three years on active duty at 11 Fort Richardson, Alaska. That's how I got to Alaska. And 12 then repeatedly on and off for the next 28 years I would 13 go on and off active duty. Sometimes it would be just for 14 a couple months and sometimes it would be for a couple 15 days and sometimes it would be for a few weeks.</b> 16 Q. Thank you. Sometimes I still have a little bit 17 of trouble as a civilian understanding the military and 18 making sure I get the lingo down. I wanted to make sure I 19 understood that. 20 You mentioned your work as counterterrorism as a 21 military police officer. 22 Can you tell me what types of counterterrorism 23 matters you would be working on? 24 <b>A. Sure. I was supposed to protect whatever base I 25 was assigned to. I was responsible for protecting the</b></p>



<p style="text-align: right;">Page 110</p> <p>1 base from terrorist activities, and so the Army spent time 2 training me in counterterrorism. I actually was in charge 3 of the special reaction team at Fort Richardson, the SRT 4 team. It's like a SWAT team. And I was sent down to 5 Hurlburt Field in Florida to get special training, 6 counterterrorism, anti-terrorism training.</p> <p>7 Q. What was the anti-terrorism training that you 8 received?</p> <p>9 A. It was a very substantive course about all the 10 different terrorism threats that the United States was 11 facing at that time. And they would bring in famous 12 people that had been involved in terrorist incidents to 13 lecture us and teach us about how to deal with terrorism. 14 And we also went out and fired a lot of weapons on the 15 range at a cool time. They had a whole arsenal full of 16 all different things, like AK-47s and everything, and they 17 let us practice and learn about them. And we talked about 18 anti-terrorism techniques and how to train the force to be 19 aware, when they're overseas, of how to behave properly so 20 you're not a victim of terrorism and what to do on a plane 21 if it gets hijacked and all that sort of, kind of 22 training.</p> <p>23 Q. And then you also mentioned intelligence work as 24 a military police officer.</p> <p>25 What type of intelligence work would you do?</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. What training did you receive?</p> <p>2 A. Multiple courses that mainly they would try to 3 have me do remotely, but, you know, the Army has like a 4 standard curriculum for these type of jobs and you have to 5 complete a bunch of classes and a lot of it was online 6 stuff that they made me do. But a lot of it was like when 7 I was there they would give me briefings and so forth. I 8 went to military police officer basic school and I went to 9 military police officer advanced school and I received 10 training at both those institutions on these kinds of 11 areas.</p> <p>12 Q. So in thinking about your time in Japan, is it 13 fair to say that, as a security officer, your primary 14 responsibility was to ensure the physical security of 15 military operations both at your base and other places in 16 the Pacific?</p> <p>17 A. Well, it was also counterintelligence, 18 counterespionage.</p> <p>19 Q. What did that work involve?</p> <p>20 A. I don't think I'm allowed to talk about that in 21 a deposition, but an Army lawyer is here. Maybe he can 22 tell you. It was all classified.</p> <p>23 Q. I'm not asking you -- and thank you for the 24 clarification. I'm certainly not asking you to divulge 25 classified information.</p>
<p style="text-align: right;">Page 111</p> <p>1 A. So at one point in my career I was the security 2 officer for United States Forces Japan, and I worked for 3 the provost marshal, who was an Air Force security police 4 officer, full colonel, and he was triple hatted, so he had 5 three responsibilities in Japan at Yokota Air Base.</p> <p>6 And I was working under him as a security 7 officer side by side with an MI, military intelligence 8 officer, and our responsibility was basically to protect 9 all the U.S. forces in Japan from terrorism threats, which 10 at the time they had the Japanese Red Brigade and people 11 were firing rockets at the base, and there were other 12 incidents going on, and basically the whole range of 13 potential threats in the Pacific. And that's what I 14 worked on.</p> <p>15 And I worked closely with the Japanese to try to 16 identify threats to the military forces in the Pacific and 17 to try to figure out how we should respond to those 18 threats. And it included not just terrorism but 19 espionage.</p> <p>20 I was also the deputy provost marshal. I 21 continued and went back there again because they requested 22 me to come back when I got promoted to a higher level.</p> <p>23 Q. Did you receive any training for your work that 24 you had to do in Japan, your security officer position?</p> <p>25 A. I did.</p>	<p style="text-align: right;">Page 113</p> <p>1 But I'm just kind of wondering, as a general 2 matter, what types of things you would be looking at in 3 terms of counterintelligence. How is that different than 4 protecting the physical security of military operations in 5 the base? So when you say "counterintelligence" and 6 "counterespionage," what do you mean by that?</p> <p>7 A. We would look at insider threats. We would try 8 to prevent people from doing things that were foolish that 9 would create a vulnerability.</p> <p>10 Q. What do you mean by "foolish" or "create a 11 vulnerability"?</p> <p>12 A. One of the big issues that came up at one point 13 in my career was USB drives. People were walking in and 14 out of secure locations with USB drives all the time. 15 They would get angry when we stopped them -- tried to stop 16 them. Because it was inconvenient. They wanted to have 17 all their data on a USB drive and they thought it was 18 annoying that they had to go through extra steps not to be 19 allowed to have their data on the USB drive and couldn't 20 do their jobs and they would get upset.</p> <p>21 Q. As a security officer did your responsibilities 22 include processing requests for security clearances?</p> <p>23 A. I did not approve security clearances, but I was 24 frequently involved in whether they were going to grant a 25 clearance to somebody or not.</p>

<p style="text-align: right;">Page 114</p> <p>1 Q. Can you tell me more about how you were 2 involved?</p> <p>3 A. Sure. They would do background checks on people 4 and they would check records to figure out whether they 5 should get somebody clearance, and they would also ask me 6 about people. They would check military police reports. 7 They'd check DCII.</p> <p>8 Q. When you say "they would check," who was doing 9 the checking?</p> <p>10 A. The people who were issuing the clearances would 11 be checking with the military police to check on whether 12 somebody had showed up in our system as a victim, a 13 witness, perpetrator. And then they would also interview 14 us. Like people seeking clearances, they would come and 15 ask me, what do I know about so and so because they're 16 looking to getting a clearance.</p> <p>17 Q. So is it fair to say that you were involved in 18 the security clearance process because the people making 19 the determination would consult with you about information 20 that the military police officers had?</p> <p>21 A. Yes.</p> <p>22 Q. Were you involved in any other way in the 23 security clearance process as a military police officer?</p> <p>24 A. Well, I got one. I mean, I went through the 25 process myself.</p>	<p style="text-align: right;">Page 116</p> <p>1 A. Well, they would get information from the person 2 and they wouldn't understand it. So they would come to me 3 because they thought I would understand what the person 4 was talking about. Maybe the person was using terminology 5 that they didn't understand.</p> <p>6 Q. Did you ever adjudicate individuals for security 7 clearance eligibility?</p> <p>8 A. Me personally? No. That wasn't my function as 9 a military police officer, was to adjudicate a security 10 clearance, no. I just provided information to the 11 adjudicator.</p> <p>12 Q. Did you ever yourself conduct investigations 13 that were part of security clearance eligibility 14 determinations?</p> <p>15 A. Yeah. If somebody's clearance was getting 16 pulled, I might be involved in the investigation.</p> <p>17 Q. How would you be involved?</p> <p>18 A. They reported some misconduct and they were 19 pulling their clearance temporarily, and so I would maybe 20 be involved in the investigation to decide whether this 21 person's clearance should be yanked or not.</p> <p>22 Q. Were you ever involved in investigations that 23 were used to determine whether somebody should have a 24 security clearance for the first time?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. And I'm thinking about security clearance 2 adjudications for other people other than yourself.</p> <p>3 Were you involved in any way other than being 4 asked for information that was in the possession of the 5 military police?</p> <p>6 A. Yeah. People would call me to ask me how to 7 interpret information that they were getting from the 8 person that they were trying to get the clearance for. So 9 they wouldn't understand something and they would call me 10 to try to get me to explain what this person's issue was.</p> <p>11 Q. Again, I don't want to ask you to -- I'm not 12 asking you to divulge any classified information or law 13 enforcement protected information, but I'm not quite sure 14 I understand your answer.</p> <p>15 So what would you be providing? How would you 16 be able to provide more details? Was it -- let me see if 17 I can ask this in a better way.</p> <p>18 Were the people doing the checking asking you 19 for help in interpreting information that they obtained 20 from other sources?</p> <p>21 A. Yes.</p> <p>22 Q. And how would you be able to help them 23 provide -- how would you be able to provide them with an 24 interpretation? How would you know -- how would you be 25 able to provide them with more details?</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. For the first time?</p> <p>2 A. Yes.</p> <p>3 Q. How were you involved in those types of 4 investigation?</p> <p>5 A. People who were doing the investigation would 6 come to me and ask me about the person.</p> <p>7 Q. Okay. Did you ever conduct investigations that 8 were being used for making security clearance eligibility 9 determinations for individuals for their first clearances?</p> <p>10 A. Sure. I mean, any military police investigation 11 might potentially feed into a security investigation for a 12 clearance.</p> <p>13 Q. Okay. But did you ever conduct any 14 investigations that were specific to security clearance 15 eligibility determinations?</p> <p>16 A. Well, I'm not -- I wasn't doing the clearance 17 myself. So I would conduct an investigation that was a 18 military police investigation and then maybe that 19 particular issue came up in the security clearance. So 20 one of the things you'll notice when they do security 21 clearance adjudications, they're checking DCII, Defense 22 Central Investigative Index. And so a military police 23 investigation might show up in DCII and they would come 24 back and want to look at it.</p> <p>25 Q. That's a helpful clarification.</p>



<p>Page 118</p> <p>1 So it's fair to say that the investigations that</p> <p>2 you yourself conducted were not for the purposes of</p> <p>3 determining security clearance eligibility determinations?</p> <p>4 <b>A. No. I didn't conduct those, but often I would</b></p> <p>5 <b>have an investigator come to me and flash a badge and go,</b></p> <p>6 <b>I'm doing a security clearance investigation on Nathan</b></p> <p>7 <b>Swinton. What do you know about Nathan Swinton? Can you</b></p> <p>8 <b>tell me if he's loyal to the United States? I see that</b></p> <p>9 <b>you were the investigating officer on Nathan Swinton's</b></p> <p>10 <b>investigation for whatever it was. What can you tell me</b></p> <p>11 <b>about that? And that would happen regularly. If my name</b></p> <p>12 <b>was on some report, then people would come and talk to me.</b></p> <p>13 Q. That's helpful. Thank you for that.</p> <p>14 Ms. Stock, were you ever assigned to a detail</p> <p>15 within the Army?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. When were you on detail?</p> <p>18 <b>A. Well, I mean, I was on detail lots of times.</b></p> <p>19 Q. Have you ever been on detail to the Army</p> <p>20 Accessions Command?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And have you ever been on detail to the</p> <p>23 assistant secretary for Manpower and Reserve Affairs?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And were those details at the same time or were</p>	<p>Page 120</p> <p>1 <b>A. They were in charge of recruiting people for the</b></p> <p>2 <b>Army.</b></p> <p>3 Q. What were --</p> <p>4 <b>A. Not exactly recruiting, but there's Army</b></p> <p>5 <b>Recruiting Command, which handles enlisted recruiting.</b></p> <p>6 <b>But basically they were like the big policy. They were</b></p> <p>7 <b>trying to figure out policy for bringing people into the</b></p> <p>8 <b>military. They call that Accessions.</b></p> <p>9 Q. What were your specific responsibilities?</p> <p>10 <b>A. I was tasked with bringing the MAVNI program on,</b></p> <p>11 <b>making it functional, and, I mean, initially the general</b></p> <p>12 <b>in charge of Army Accessions Command wanted to recruit</b></p> <p>13 <b>more immigrants, and he tasked me to be the officer to try</b></p> <p>14 <b>to figure out how to recruit more immigrants and get the</b></p> <p>15 <b>project approved at the Pentagon.</b></p> <p>16 <b>And then once it got approved at the Pentagon,</b></p> <p>17 <b>they made me the functional manager for the program on and</b></p> <p>18 <b>off to deal with -- they called me the project officer.</b></p> <p>19 <b>So I was the Army project officer for the program. But I</b></p> <p>20 <b>also ended up working for the Navy and the Air Force as</b></p> <p>21 <b>well.</b></p> <p>22 Q. On MAVNI issues?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. The Army Accessions Command, is that part of the</p> <p>25 military intelligence community?</p>
<p>Page 119</p> <p>1 those different details?</p> <p>2 <b>A. I think they were kind of coterminous.</b></p> <p>3 Q. So you were on detail --</p> <p>4 <b>A. Like same period of time, but sometimes I was</b></p> <p>5 <b>like on one or the other.</b></p> <p>6 Q. You were on detail to two offices for the same</p> <p>7 period of time?</p> <p>8 <b>A. Well, it -- like one week for one, one week for</b></p> <p>9 <b>the other one kind of thing, but over a time period.</b></p> <p>10 Q. Were you at those offices for the same</p> <p>11 overlapping period of time? So basically I'm trying to</p> <p>12 understand if, say, you're at one office for two years, if</p> <p>13 you were also at the other office for the same two years.</p> <p>14 Did those two details overlap for the same periods of</p> <p>15 time?</p> <p>16 <b>A. I wasn't -- I mean, what would happen would be I</b></p> <p>17 <b>would get told one week to go to one place and one week to</b></p> <p>18 <b>go to a different place. But I wasn't physically in two</b></p> <p>19 <b>different places at the same time, no.</b></p> <p>20 Q. Understood. Do you remember the years that you</p> <p>21 had these details? What was the time frame?</p> <p>22 <b>A. October 2007 on and off until June 2010.</b></p> <p>23 Q. So starting with the Army Accessions Command,</p> <p>24 what is the responsibilities -- what are the</p> <p>25 responsibilities of that office?</p>	<p>Page 121</p> <p>1 <b>A. No. Well, you wouldn't say it is. I mean, it</b></p> <p>2 <b>should be, in the sense of they should be collecting</b></p> <p>3 <b>information and passing it to each other. But it's not</b></p> <p>4 <b>considered part of the intelligence community, no, per se.</b></p> <p>5 Q. And the other office that you were at during</p> <p>6 this time period was the assistant secretary for Manpower</p> <p>7 and Reserve Affairs. I believe that's called M&amp;RA</p> <p>8 sometimes, shorthand?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. So what are the responsibilities of M&amp;RA?</p> <p>11 <b>A. They're supposed to be looking policy-wise at</b></p> <p>12 <b>manpower issues for the military. They also deal with</b></p> <p>13 <b>other related things. But mainly I was working with them</b></p> <p>14 <b>on the manpower issues.</b></p> <p>15 Q. And was your work with M&amp;RA also pertaining to</p> <p>16 the MAVNI program?</p> <p>17 <b>A. Pretty much. Most of it, yep.</b></p> <p>18 Q. How would you describe your responsibilities for</p> <p>19 your detail with M&amp;RA?</p> <p>20 <b>A. I was supposed to get the MAVNI program approved</b></p> <p>21 <b>at the Pentagon and do all the coordination with all</b></p> <p>22 <b>different agencies relating to the MAVNI program. I</b></p> <p>23 <b>handled press issues. I do coordination with ODNI, DHS.</b></p> <p>24 <b>I did work at the Under Secretary of Defense for Personnel</b></p> <p>25 <b>and Readiness. Basically dealt with -- any issue that</b></p>

<p style="text-align: right;">Page 122</p> <p>1 came up with the MAVNI program, they were having me deal 2 with it. 3 Q. So you mentioned you worked -- you did work with 4 DHS. 5 What was the work that you did with DHS? 6 A. To coordinate with them to try to make sure 7 there weren't any problems when we rolled out the MAVNI 8 program with the immigrants and their families. 9 Q. What were some of the issues that you worked on 10 specifically with DHS? 11 A. They wanted to figure out a way to naturalize 12 them quickly. They wanted to figure out a way to take 13 care of their family members. That was a big concern. 14 They wanted to make sure they weren't getting deported 15 while they were waiting to ship out to training. 16 They wanted -- they needed -- DHS needed help 17 with checking the immigration documents of all the MAVNIs. 18 So I spent a lot of time working with the DHS side of the 19 house that was checking all their immigration documents. 20 Because we didn't want anybody who was coming into the 21 military to be an unauthorized immigrant. And DHS needed 22 help with that, so I would work with them on a daily basis 23 to look at the immigrant's documents and make sure they 24 were valid. 25 And then I'd work with -- Under Secretary of</p>	<p style="text-align: right;">Page 124</p> <p>1 information in them. 2 I would -- when they came out with the list of 3 the visas that were allowed, I would comment on that and 4 try to correct errors. Wasn't always successful. 5 Basically anything to do with the MAVNI program. If they 6 were putting out a press release, they would send it to me 7 and try to get me to fix it before it went out. 8 Letters. I was tasked with drafting a lot of 9 letters from different officers and secretaries, and so 10 forth, to go to other people to talk about the MAVNI 11 program. 12 Q. Were there any other offices within the Office 13 of the Secretary of Defense that you worked in other than 14 Personnel and Readiness? 15 A. Worked in? I didn't really work in any of 16 these. I mean, I would show up at the Pentagon and I 17 would just go wherever they told me to go. So I was all 18 over the place. I didn't have an office at the Pentagon. 19 I was just carrying my briefcase everywhere. 20 Q. Let me be more precise with my question. 21 So how would you describe your work with the 22 Office of the Under Secretary of Defense for Personnel and 23 Readiness? Were you assigned to that office? 24 A. No. I wasn't assigned there. I was assigned to 25 West Point the whole time.</p>
<p style="text-align: right;">Page 123</p> <p>1 Defense, I worked with them a lot. Army G-2, G-1. 2 Q. Let's start with the Under Secretary of Defense. 3 What offices within the Under Secretary of 4 Defense did you work for? 5 A. Well, I worked with military personnel policy. 6 Q. What's the name of that office? 7 A. Military -- 8 Q. That is. Sorry. Is that within Personnel and 9 Readiness or is that a separate -- 10 A. It was the Under Secretary of Defense for 11 Personnel and Readiness. I worked for -- worked with that 12 office. So anybody under them that was dealing with 13 officer accessions or enlisted accessions. 14 Q. What types of -- what were your responsibilities 15 when you were working with Personnel and Readiness? 16 A. I would go to meetings on a regular basis, but 17 mainly they had me drafting documents and dealing with 18 e-mails. 19 Q. What documents would you be drafting? 20 A. I drafted addenda to the enlistment contracts 21 for the MAVNIs. I drafted press information. I drafted 22 information sheets, frequently-asked-questions sheets. 23 Slide decks. I spent a lot of time working on PowerPoint 24 slide decks. I would proofread products that that office 25 had produced for accuracy and correct inaccurate</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. You were on detail to the other offices in the 2 Army, so was it in your capacity as a detailee that you 3 would work with Personnel and Readiness on these issues 4 pertaining to the MAVNI program? 5 A. Yeah. The whole time this was going on, my 6 official assignment was as a professor at United States 7 Military Academy at West Point. So I never had an office 8 at the Pentagon. I was always assigned to West Point. 9 They would just send me an e-mail and say, show up at the 10 Pentagon in room blah, blah, blah and talk about the MAVNI 11 program and these are the people that you need to talk to. 12 Q. What other offices in the Office of Secretary of 13 Defense did you work with, other than Personnel and 14 Readiness, on the MAVNI program? 15 A. The intel people, Special Operations Command, 16 Navy Seals, Army G-1, Army G-2, DoD IG. 17 Q. So you mentioned the Special Operations Command. 18 What is that office? What is the Special 19 Operations Command? 20 A. They're a combatant command. 21 Q. Are they located within the Office of the 22 Secretary of Defense? 23 A. No. They're in Tampa, Florida. But they have 24 people in the building. 25 Q. So what would you work with them on pertaining</p>

<p style="text-align: right;">Page 126</p> <p>1 to the MAVNI program?</p> <p>2 <b>A. They wanted the MAVNI program to get approved</b></p> <p>3 <b>because they saw that it would benefit Special Operations</b></p> <p>4 <b>Command greatly. They were having grave difficulty</b></p> <p>5 <b>finding people to work for Special Operations Command who</b></p> <p>6 <b>spoke foreign languages fluently and had cultural</b></p> <p>7 <b>expertise, and they were -- and were able to blend in with</b></p> <p>8 <b>local populations. And they had had a lot of difficulty</b></p> <p>9 <b>finding folks like that, and they wanted a way to tap into</b></p> <p>10 <b>the immigrants in the United States and try to recruit</b></p> <p>11 <b>them for Special Operations Command. They'd been trying</b></p> <p>12 <b>to do that for years and had never figured a way to make</b></p> <p>13 <b>it happen until the MAVNI program came along.</b></p> <p>14 Q. So is it fair to say that you worked with</p> <p>15 Special Operations Command on recruitment issues?</p> <p>16 <b>A. Well, I worked on security with them too,</b></p> <p>17 <b>because they were concerned -- you know, they didn't want</b></p> <p>18 <b>their force infiltrated. So we were talking about</b></p> <p>19 <b>security issues as well. But it was related to bringing</b></p> <p>20 <b>in immigrants into the military or trying to work with</b></p> <p>21 <b>immigrants or trying to work with indigenous populations</b></p> <p>22 <b>in certain parts of the world, and how do you make sure</b></p> <p>23 <b>you don't have a threat to the force. And I tried to help</b></p> <p>24 <b>them with that because of my immigration expertise.</b></p> <p>25 Q. You mentioned that you worked with intel people</p>	<p style="text-align: right;">Page 128</p> <p>1 <b>solutions, but later on, apparently, those recommendations</b></p> <p>2 <b>got disregarded.</b></p> <p>3 Q. Did you have access to classified information</p> <p>4 while you were on these details?</p> <p>5 <b>A. At times I did, yes.</b></p> <p>6 Q. Do you remember what times you had access to</p> <p>7 classified information?</p> <p>8 <b>A. When I needed to have access for a particular</b></p> <p>9 <b>issue that we were dealing with.</b></p> <p>10 Q. Did you have a security clearance during your</p> <p>11 time on detail?</p> <p>12 <b>A. I did.</b></p> <p>13 Q. What level of classification did you have access</p> <p>14 to?</p> <p>15 <b>A. I could have had access, I think, to top secret,</b></p> <p>16 <b>but they didn't have anything I needed to review that was</b></p> <p>17 <b>top secret. So I only reviewed secret, that I can recall.</b></p> <p>18 <b>But I don't remember exactly. And I know for sure I</b></p> <p>19 <b>didn't look at anything top secret related to MAVNI,</b></p> <p>20 <b>because there wasn't anything.</b></p> <p>21 Q. Did you have -- okay.</p> <p>22 Did you in fact review classified information</p> <p>23 about the MAVNI program during your time on detail?</p> <p>24 <b>A. I did.</b></p> <p>25 Q. And you said that was at a secret level?</p>
<p style="text-align: right;">Page 127</p> <p>1 about the MAVNI program. So thinking only about offices</p> <p>2 within the Office of the Secretary of Defense, who are the</p> <p>3 intel people that you worked with on the MAVNI program?</p> <p>4 <b>A. Well, it would be USDI people. You say "worked</b></p> <p>5 <b>with." I mean, we'd have big meetings with lots of</b></p> <p>6 <b>people, so I don't remember the names of everybody that</b></p> <p>7 <b>was there, but they were people that were assigned to the</b></p> <p>8 <b>Under Secretary of Defense for Intelligence.</b></p> <p>9 Q. What are they -- again, I'm not asking you to</p> <p>10 divulge classified information or law enforcement</p> <p>11 information, but what are the types of intelligence issues</p> <p>12 that you would address as you were discussing the MAVNI</p> <p>13 program with officials in USDI?</p> <p>14 <b>A. Well, as with every recruiting program, you</b></p> <p>15 <b>always worry, when you're bringing people into the</b></p> <p>16 <b>military, that some bad guys might kind of try to come</b></p> <p>17 <b>into the military. So they had long-standing concerns</b></p> <p>18 <b>based on the fact that native-born American citizens were</b></p> <p>19 <b>doing this bad stuff and everything and they thought if we</b></p> <p>20 <b>bring immigrants into the military, we might have a threat</b></p> <p>21 <b>or whatever, and so everybody wanted to discuss that, and</b></p> <p>22 <b>that was the basis of the interactions.</b></p> <p>23 <b>We would spend a lot of time talking about</b></p> <p>24 <b>potential threats and how do we reduce the threat and that</b></p> <p>25 <b>sort of thing, and we came up with some pretty good</b></p>	<p style="text-align: right;">Page 129</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Did you review classified information pertaining</p> <p>3 to individual MAVNI soldiers during your time on detail?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Have you at any other point reviewed classified</p> <p>6 information pertaining to individual MAVNI soldiers?</p> <p>7 <b>A. No.</b></p> <p>8 Q. You mentioned Army G-2 is an office that you</p> <p>9 interacted with as part of your time working on the MAVNI</p> <p>10 program while on detail.</p> <p>11 What types of interactions would you have with</p> <p>12 that office?</p> <p>13 <b>A. Patricia Stokes would come to meetings and I</b></p> <p>14 <b>would interact with her. Other people from the G-2 would</b></p> <p>15 <b>come to meetings and raise their concerns and we would</b></p> <p>16 <b>talk about issues.</b></p> <p>17 Q. You also mentioned the Department of Defense</p> <p>18 Inspector General.</p> <p>19 How would you interact with officials from the</p> <p>20 IG's office?</p> <p>21 <b>A. They would come by to chat about complaints that</b></p> <p>22 <b>they were getting from MAVNIs about the way they were</b></p> <p>23 <b>being discriminated against and treated, and they would</b></p> <p>24 <b>want to know how to resolve those complaints. And they</b></p> <p>25 <b>were getting complaints from other people that -- there</b></p>

<p style="text-align: right;">Page 130</p> <p>1 was an incident where they wrongly identified a bunch of 2 people as supposedly being MAVNIs, but they weren't 3 MAVNIs, and that went up to the IG's office. And somebody 4 was blaming the MAVNI program for these people doing 5 something, but they turned out they weren't MAVNIs. They 6 were other people.</p> <p>7 There was a lot of confusion about what a MAVNI 8 was and a lot of confusion in the ranks that anybody with 9 a foreign name was a MAVNI or anybody -- there was 10 confusion. People thought anybody who was a linguist was 11 a MAVNI. They were confusing people who were Iraqis and 12 Afghans overseas with being MAVNIs. So we would have to 13 explain that this guy who is a civilian working for a 14 contractor overseas is not a MAVNI. But there was a lot 15 of misinformation about the program that was rampant 16 throughout the building.</p> <p>17 Q. I think you may have mentioned this before, but 18 just remind me.</p> <p>19 When did you retire from military service?</p> <p>20 A. June 2010.</p> <p>21 Q. You mentioned you still are commissioned as an 22 officer; is that correct?</p> <p>23 A. I'm a member of the retired reserve. Gray area 24 retiree.</p> <p>25 Q. What does that mean to be a member of the</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Do you have any involvement with the MAVNI 2 program as a member of the retired reserve?</p> <p>3 A. I get regular calls from people in the 4 government about the MAVNI program, yes.</p> <p>5 Q. Is part of your duties as a member of the 6 retired reserve to respond to those calls about the MAVNI 7 program?</p> <p>8 A. No.</p> <p>9 Q. So when you receive conversations -- or receive 10 inquiries and requests for information about the MAVNI 11 program, is it fair to say that that's separate from your 12 responsibilities as a member of the retired reserve?</p> <p>13 A. Well, it's not my responsibility, but people 14 consider it a professional courtesy that I will provide 15 them with the information because I'm a subject matter 16 expert. So they think -- I'm retired, they think I have 17 some obligation -- professional obligation as a retired 18 officer to provide them with the information that they're 19 asking because I'm the one that knows the information.</p> <p>20 Q. About these communications that you've had with 21 the MAVNI program, who are you communicating with about 22 the MAVNI program? Who is still on active duty with the 23 military?</p> <p>24 A. MAVNIs?</p> <p>25 Q. (Nods head)</p>
<p style="text-align: right;">Page 131</p> <p>1 retired reserve?</p> <p>2 A. It means I still hold a commission and I can be 3 called up on active duty if there's a declaration of war.</p> <p>4 Q. Why did you retire in 2010?</p> <p>5 A. I reached any statutory retirement date.</p> <p>6 Q. Do you believe that you retired on good terms 7 with the military?</p> <p>8 A. I know I did, because they tried to retain me on 9 active duty for three years on the date of my retirement, 10 but it was illegal and JAG told me I couldn't do that.</p> <p>11 Q. So going back to your kind of ongoing 12 involvement with the military as a member of the retired 13 reserve, you mentioned that you could be called up if 14 there's a declaration of war.</p> <p>15 Are there any other commitments that you have 16 with the military currently?</p> <p>17 A. No.</p> <p>18 Q. Do you ever have to report for training or 19 anything?</p> <p>20 A. No.</p> <p>21 Q. Do you ever have any sort of official 22 communications with other military officials as part of 23 your capacity as a member of the retired reserve?</p> <p>24 A. They invite me to come to retiree seminars on a 25 regular basis. I went to one a couple weeks ago.</p>	<p style="text-align: right;">Page 133</p> <p>1 A. JAG officers trying to help the MAVNIs, 2 commanders of the MAVNIs, people working at the Pentagon 3 who are on active duty, people on active duty, recruiters.</p> <p>4 Q. Are there any individuals who are not on active 5 duty, but who are still members of the military, that you 6 communicate with about the MAVNI program?</p> <p>7 A. Who are not on active duty but are members of 8 the military?</p> <p>9 Q. Yes.</p> <p>10 A. So like reserve?</p> <p>11 Q. Sure. Who are they?</p> <p>12 A. Same list of people. I'd add to that 13 congressional staffers, members of Congress, senators, 14 people trying to draft legislation.</p> <p>15 Q. So I want to go through some of the categories 16 of people who you said you still have communications with.</p> <p>17 You mentioned JAG officers. What types of 18 discussions would you have with JAG officers?</p> <p>19 A. They would call me about their clients who are 20 MAVNIs and want to know what to do about them. They would 21 call me because the command doesn't know what a MAVNI is 22 and they want more information about what is a MAVNI. 23 They would go to a continuing legal education event and 24 I'm giving a seminar on MAVNI and they would ask me 25 questions about it. That's pretty common.</p>



<p style="text-align: right;">Page 134</p> <p>1 Q. Do you ever have conversations with JAG officers 2 about intelligence concerns posed by MAVNI soldiers? 3 <b>A. Yeah.</b> 4 Q. What are those conversations? 5 <b>A. Oh, they're generally along the lines of that</b> 6 <b>one of the reasons why this whole bureaucratic mess has</b> 7 <b>been caused -- has been created is because there's a group</b> 8 <b>of people in the military who are xenophobic and over the</b> 9 <b>years the intelligence community -- years ago they were</b> 10 <b>afraid of the Irish and then they were afraid of African</b> 11 <b>Americans and then they were afraid of women and then they</b> 12 <b>were afraid of gay people, and all those barriers have</b> 13 <b>been overcome over the years, and now the latest group of</b> 14 <b>people that the DoD has targeted are the immigrants.</b> 15 <b>And they say basically one day this will pass,</b> 16 <b>but at the moment the immigrants are the ones being</b> 17 <b>targeted and it's because they aren't able to -- you know,</b> 18 <b>everybody else has proved themselves and now it's time the</b> 19 <b>immigrants -- it's the civil rights movement of the 21st</b> 20 <b>Century, basically, and everybody is xenophobic, and</b> 21 <b>that's what's causing all this.</b> 22 Q. In your conversations with JAG officers, do you 23 ever discuss any intelligence reporting? 24 <b>A. We discuss what's been in the newspaper.</b> 25 Q. Have JAG officers ever communicated to you any</p>	<p style="text-align: right;">Page 136</p> <p>1 <b>articles and things.</b> 2 Q. Sure. Any nonpublic intelligence reporting from 3 the Army or the Department of Defense? Have you received 4 any from JAG officers? 5 <b>A. No.</b> 6 Q. You mentioned that you also keep in touch with 7 commanders? 8 If you could estimate, how many commanders do 9 you still keep in touch with? 10 <b>A. Well, I don't have -- I don't keep in touch with</b> 11 <b>people. People contact me and then if I need to follow</b> 12 <b>up, I will. But it's -- I will talk to one person one</b> 13 <b>time and then maybe never talk to them again or maybe</b> 14 <b>they'll call me two or three times about a particular</b> 15 <b>case. Usually they're JAG officers calling too.</b> 16 Q. So I'm interested just in the commanders for 17 now. 18 But what types of issues will the commanders 19 reach out to you about? 20 <b>A. They're frustrated because their soldier can't</b> 21 <b>get citizenship and they want to know why their soldier</b> 22 <b>can't get citizenship. They want to know if they can</b> 23 <b>write a letter of recommendation. They'll say things</b> 24 <b>like, this guy is a great person, I don't understand what</b> 25 <b>the problem is. They'll ask me what are the bureaucratic</b></p>
<p style="text-align: right;">Page 135</p> <p>1 nonpublic intelligence reporting? 2 <b>A. Well, it's not classified, but I have received</b> 3 <b>reports from, like, Homeland Security investigations that</b> 4 <b>allege different things in connection with a particular</b> 5 <b>case, but it's not classified information. It's...</b> 6 Q. You receive those DHS reports from JAG officers? 7 <b>A. Yeah, because we're representing a person and</b> 8 <b>they want to know what it means, you know.</b> 9 Q. Have you received any classified information 10 from JAG officers? 11 <b>A. No. They wouldn't do that, because it's</b> 12 <b>classified and I don't hold a clearance right now.</b> 13 Q. Aside from -- 14 <b>A. I can give you an example. So, for example, if</b> 15 <b>somebody is being chaptered out of the Army and the JAG</b> 16 <b>officer is representing the person who is being chaptered</b> 17 <b>out of the Army, they're going to get a big packet from</b> 18 <b>the command that talks about the person, and they don't</b> 19 <b>understand the packet. So they'll call me to ask me what</b> 20 <b>different terms mean, because they're trying to represent</b> 21 <b>their client.</b> 22 Q. Have you received from JAG officers any 23 intelligence reporting from either the Army or the 24 Department of Defense? 25 <b>A. Not classified. I've gotten the usual newspaper</b></p>	<p style="text-align: right;">Page 137</p> <p>1 <b>obstacles that are preventing their soldier from getting</b> 2 <b>citizenship.</b> 3 Q. Are the communications always about citizenship 4 questions? 5 <b>A. No. Sometimes it's something like security</b> 6 <b>clearances or why can't so and so get a clearance. A</b> 7 <b>typical one would be I got told this person is a MAVNI and</b> 8 <b>they're not allowed to get a security clearance anymore.</b> 9 <b>And I'll say, that's not correct. And here is a document</b> 10 <b>that maybe you can look at and talk to your JAG about.</b> 11 <b>But the rumor is rampant throughout the United States</b> 12 <b>military that MAVNIs are not allowed to get security</b> 13 <b>clearances.</b> 14 Q. In your conversations with commanders have you 15 ever received any nonpublic information about the MAVNI 16 program? 17 <b>A. Okay. Well, nonpublic. If it's -- the</b> 18 <b>commander thinks the guy is a good guy, that's nonpublic.</b> 19 <b>They write a letter of recommendation. That's not public.</b> 20 Q. Sure. Let me rephrase the question. 21 In your conversations with commanders have you 22 ever received any nonpublic documents about the MAVNI 23 program? 24 <b>A. Nonpublic documents about the MAVNI program? I</b> 25 <b>mean, are you talking about policy documents?</b></p>

<p style="text-align: right;">Page 138</p> <p>1 Q. Any nonpublic documents about the MAVNI program.</p> <p>2 I'm not concerned about a specific individual, but</p> <p>3 documents that are discussing or pertain to the MAVNI</p> <p>4 program kind of at large.</p> <p>5 Have you received any nonpublic documents</p> <p>6 pertaining to the MAVNI program?</p> <p>7 <b>A. From a commander?</b></p> <p>8 Q. From commanders.</p> <p>9 <b>A. Not directly.</b></p> <p>10 Q. Have you received any DoD or Army intelligence</p> <p>11 reporting about the MAVNI program from commanders?</p> <p>12 <b>A. I mean, I wouldn't call it from commanders.</b></p> <p>13 <b>I've seen e-mails making allegations about problems,</b></p> <p>14 <b>intelligence things, but they're not classified. They're</b></p> <p>15 <b>just basically somebody making a comment that these are</b></p> <p>16 <b>foreigners and they're dangerous and, you know, that kind</b></p> <p>17 <b>of thing.</b></p> <p>18 Q. Are those e-mails being written by commanders</p> <p>19 and sent to you?</p> <p>20 <b>A. Well, the commander isn't writing it directly</b></p> <p>21 <b>and sending it to me, no. It's usually the -- the e-mail</b></p> <p>22 <b>train goes around to jillions of people and then somebody</b></p> <p>23 <b>will send it to me.</b></p> <p>24 Q. Is it the commander sending you that e-mail</p> <p>25 chain or is it somebody else?</p>	<p style="text-align: right;">Page 140</p> <p>1 <b>Seals. Legal assistants. Public Affairs. Congressional</b></p> <p>2 <b>Liaison. NSA. They're not at the Pentagon, though.</b></p> <p>3 Q. Okay. So thinking about individuals at P&amp;R,</p> <p>4 have you had discussions with current P&amp;R employees about</p> <p>5 the MAVNI program since the time you retired?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Who have you had discussions with?</p> <p>8 <b>A. Christopher Arendt.</b></p> <p>9 Q. What have you discussed with him?</p> <p>10 <b>A. The MAVNI program generally.</b></p> <p>11 Q. Anything more specific?</p> <p>12 <b>A. Different aspects of the program.</b></p> <p>13 Q. Anybody else at P&amp;R?</p> <p>14 <b>A. Yes. Let's see. Since I retired. I don't</b></p> <p>15 <b>recall when Bill Carr passed away. I don't know. I think</b></p> <p>16 <b>that was after I retired.</b></p> <p>17 Q. Anybody else other than Christopher Arendt and</p> <p>18 Bill Carr?</p> <p>19 <b>A. There have been other people, but I'm not sure I</b></p> <p>20 <b>remember their names. I mean, it was incidental, like</b></p> <p>21 <b>they would call me about one issue.</b></p> <p>22 Q. Since the time you retired, have you received</p> <p>23 DoD intelligence reporting about the MAVNI program from</p> <p>24 anybody at P&amp;R?</p> <p>25 <b>A. Well, can you clarify what you mean by DoD</b></p>
<p style="text-align: right;">Page 139</p> <p>1 <b>A. Sometimes, yeah. They just -- I mean, there's a</b></p> <p>2 <b>common and unfortunate practice at the Pentagon of people</b></p> <p>3 <b>taking an e-mail and forwarding it to somebody else, who</b></p> <p>4 <b>forwards it to somebody else, who forwards it to somebody</b></p> <p>5 <b>else, and nobody deletes the chain at the bottom so</b></p> <p>6 <b>everybody gets the whole entire discussion and adds all</b></p> <p>7 <b>their comments. And they have attachments and they don't</b></p> <p>8 <b>rip the attachments off or anything. That kind of thing</b></p> <p>9 <b>happens on a regular basis.</b></p> <p>10 Q. Have you received any classified information in</p> <p>11 your discussions with commanders?</p> <p>12 <b>A. No.</b></p> <p>13 Q. So you also mentioned that you have had</p> <p>14 conversations since you retired with people at the</p> <p>15 Pentagon.</p> <p>16 Who are the people at the Pentagon who you have</p> <p>17 had conversations with?</p> <p>18 <b>A. Oh, boy. There's a lot of them. Want me to try</b></p> <p>19 <b>to list them all?</b></p> <p>20 Q. Why don't you identify them by offices to start.</p> <p>21 <b>A. Okay. Office of the Under Secretary Defense for</b></p> <p>22 <b>Personnel and Readiness, multiple people. USDI, some</b></p> <p>23 <b>people. ASA, M&amp;RA. The Navy equivalent. The Air Force</b></p> <p>24 <b>equivalent. DOG IG. Sec Def's office. Am I forgetting</b></p> <p>25 <b>anybody? SOCOM, but they're technically in Tampa. Navy</b></p>	<p style="text-align: right;">Page 141</p> <p>1 <b>intelligence reporting?</b></p> <p>2 Q. Sure. Any DoD. I'm thinking of intelligence</p> <p>3 reports that are specific to the MAVNI program that are</p> <p>4 created by any offices within OSD?</p> <p>5 <b>A. So if it's classified, no, I have not received</b></p> <p>6 <b>it.</b></p> <p>7 Q. Have you received any nonclassified intelligence</p> <p>8 reporting about the MAVNI program?</p> <p>9 <b>A. Yeah. I mean, I've heard from people about the</b></p> <p>10 <b>DoD IG report.</b></p> <p>11 Q. Have you received those documents?</p> <p>12 <b>A. Let me be more specific.</b></p> <p>13 <b>Have you received the actual documents?</b></p> <p>14 <b>A. No.</b></p> <p>15 <b>Q. And I guess let's do this. Maybe instead of by</b></p> <p>16 <b>office, have you received any documents that are</b></p> <p>17 <b>intelligence reporting from any offices within the Office</b></p> <p>18 <b>of the Secretary of Defense pertaining to the MAVNI</b></p> <p>19 <b>program since the time you retired?</b></p> <p>20 <b>A. Can you clarify what you mean by "intelligence</b></p> <p>21 <b>reporting"?</b></p> <p>22 <b>Q. Sure. So this is information that would discuss</b></p> <p>23 <b>security concerns about the MAVNI program put together by</b></p> <p>24 <b>intelligence officials.</b></p> <p>25 <b>A. Only things put together by intelligence</b></p>

<p style="text-align: right;">Page 142</p> <p><b>1 officials?</b></p> <p><b>2 Q. Let's start there.</b></p> <p><b>3 Have you received any of the actual reports?</b></p> <p><b>4 A. No. Not anything put together by intelligence</b></p> <p><b>5 officials, no.</b></p> <p>6 Q. Are there other documents that you have received</p> <p>7 that discuss security concerns with the MAVNI program that</p> <p>8 were not put together by intelligence officials?</p> <p><b>9 A. I mean, I wrote a paper that talked about it. I</b></p> <p><b>10 looked at the documents referenced in the paper. And yes,</b></p> <p><b>11 I've had multiple conversations with people about security</b></p> <p><b>12 concerns relating to the MAVNI program, both before and</b></p> <p><b>13 after I retired.</b></p> <p>14 Q. When you have those conversations with people</p> <p>15 about security concerns with the MAVNI program, do they</p> <p>16 provide you with any actual documents, any DoD documents</p> <p>17 that describe those security concerns?</p> <p><b>18 A. Sure.</b></p> <p>19 Q. What documents do they give you?</p> <p><b>20 A. Those CI reports I brought with -- or</b></p> <p><b>21 Mr. O'Donnell brought today.</b></p> <p>22 Q. Is it fair to say those CI reports are focused</p> <p>23 on specific MAVNI soldiers, individual MAVNI soldiers,</p> <p>24 rather than the program as a general matter?</p> <p><b>25 A. Well, okay. So those are one type of document</b></p>	<p style="text-align: right;">Page 144</p> <p><b>1 A. No, because I don't have a clearance and I don't</b></p> <p><b>2 touch classified information.</b></p> <p>3 Q. Let me ask you again and just wait until I</p> <p>4 finish my question before you answer, please, because you</p> <p>5 answered in the middle of the question.</p> <p>6 So have you had any access to classified</p> <p>7 information since you retired?</p> <p><b>8 A. No.</b></p> <p>9 Q. Thank you. Okay. So I'm not interested in</p> <p>10 classified information, but have you had access to any</p> <p>11 intelligence reporting that was written by current DoD or</p> <p>12 Army officials about the MAVNI program since the time you</p> <p>13 retired?</p> <p><b>14 A. Unclassified information, yes.</b></p> <p>15 Q. Are there any documents that you've received</p> <p>16 other than the CI reports you brought with you today?</p> <p><b>17 A. Well, officials write for publication and they</b></p> <p><b>18 post things on the Internet and they send me links to them</b></p> <p><b>19 and say, look what I wrote, and they attach a link. Or</b></p> <p><b>20 sometimes they send me a draft of a document and ask me to</b></p> <p><b>21 review it because they want me to tell them if it's</b></p> <p><b>22 accurate.</b></p> <p>23 Q. Anything else?</p> <p><b>24 A. Or they tell me that a memo is about to come out</b></p> <p><b>25 and here's the copy of the memo. That happened with the</b></p>
<p style="text-align: right;">Page 143</p> <p><b>1 and then there's also --</b></p> <p>2 Q. I just want you to answer the question about the</p> <p>3 CI reports.</p> <p>4 So are the CI reports focused on to MAVNI</p> <p>5 program overall or individual MAVNI soldiers?</p> <p><b>6 A. They're both.</b></p> <p>7 Q. I think I'm getting confused. So maybe let me</p> <p>8 step back a little bit, because I want to make sure I</p> <p>9 understand this with certainty. So I'm interested in</p> <p>10 knowing what documents you've received -- or what</p> <p>11 documents you viewed since the time you retired from</p> <p>12 military service.</p> <p>13 You said you haven't received any intelligence</p> <p>14 reporting put together by intelligence officials since you</p> <p>15 retired; is that correct?</p> <p><b>16 A. Okay. Well, I would say there are retired</b></p> <p><b>17 intelligence officials who write assessments about the</b></p> <p><b>18 MAVNI program and they send them to me, but they're not</b></p> <p><b>19 classified and they're not currently working for the</b></p> <p><b>20 government.</b></p> <p>21 Q. Let's start with the classified.</p> <p>22 Have you had any access to classified</p> <p>23 information --</p> <p><b>24 A. No.</b></p> <p>25 Q. -- since you retired?</p>	<p style="text-align: right;">Page 145</p> <p><b>1 Peter Levine memo. They told me that was about to come</b></p> <p><b>2 out and they wanted me to look at the Peter Levine memo.</b></p> <p>3 MR. SWINTON: I think we're at a good spot to</p> <p>4 take a lunch break. I assume that works for you guys.</p> <p>5 It's 12:15.</p> <p>6 So before we go off the record, I'm going to</p> <p>7 state again that we would ask the witness not to discuss</p> <p>8 the contents in the deposition with Mr. O'Donnell. The</p> <p>9 authority is, for DOJ's view, were the ones that were</p> <p>10 provided in the deposition of Naomi Verdugo. So we'd ask</p> <p>11 that you not discuss the deposition during the lunch</p> <p>12 break.</p> <p><b>13 THE WITNESS: How long is this lunch break?</b></p> <p>14 MR. SWINTON: I was thinking of taking an hour.</p> <p>15 Does that work for you guys?</p> <p><b>16 THE WITNESS: Let's just do ten minutes because</b></p> <p><b>17 I've got to get back to work.</b></p> <p>18 MR. O'DONNELL: Let's do an hour.</p> <p>19 MR. SWINTON: We're going to need more than ten</p> <p>20 minutes.</p> <p><b>21 THE WITNESS: This is down time.</b></p> <p>22 MR. SWINTON: So we can go off the record.</p> <p>23 (Lunch recess taken)</p> <p>24 MR. O'DONNELL: Nate, you asked about the</p> <p>25 documents we brought today. One is the Cato Report,</p>

<p style="text-align: right;">Page 146</p> <p>1 Policy Analysis Number 838, Extreme Vetting of Immigrants, 2 Estimating Terrorism Vetting Failures. That's your copy. 3 And I've also brought with us today four 4 printouts of the University of Northern New Jersey website 5 which is cached on the Wayback Machine, but they've also 6 previously been marked trial exhibits -- plaintiff trial 7 exhibits 86, 87, 88, and 89. These are also your copies. 8 And then the witness has brought a stack of CI 9 screenings for -- I haven't counted how many people. But 10 this is my copy. I just got it. So you guys are going to 11 have to make copies of this. 12 MR. SWINTON: Okay. Are those trial exhibits 13 that you sent to us? Are any of them trial exhibits? 14 MR. O'DONNELL: No. There's that stack, which 15 is eight inches high or so. 16 MR. SWINTON: These are all CI reports? 17 MR. O'DONNELL: Correct, as I understand it. 18 <b>THE WITNESS: And related documents. Basically</b> 19 <b>put the packet that came to me with whatever other</b> 20 <b>documents were with it in terms of the official government</b> 21 <b>documents. So like it has the Privacy Act headers and</b> 22 <b>miscellaneous things that were attached to them.</b> 23 MR. SWINTON: That's everything, right? 24 MR. O'DONNELL: That's all we brought, right. 25 ///</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Anything else? 2 <b>A. Well, that's the main claim, but there's</b> 3 <b>individual parts of that. I can break that down for you</b> 4 <b>if you want.</b> 5 Q. Sure. 6 <b>A. Well, the plaintiffs are members of the United</b> 7 <b>States military who are naturalized U.S. citizens, who</b> 8 <b>entered the United States military through the MAVNI</b> 9 <b>program, Military Accessions Vital to the National</b> 10 <b>Interest. And when they entered the military, they were</b> 11 <b>assured that the normal opportunities available to any</b> 12 <b>American citizen serving in the military would be open to</b> 13 <b>them and they would be treated fairly and equally in</b> 14 <b>accordance with the Department of Defense Equal</b> 15 <b>Opportunity Policy and the general principles of equal</b> 16 <b>protection found in the United States Constitution.</b> 17 <b>And then on September 30th, 2016, or</b> 18 <b>thereabouts, Peter Levine issued a patently</b> 19 <b>unconstitutional memo that laid out an official DoD policy</b> 20 <b>to discriminate against this group of people based on</b> 21 <b>their national origin. And that policy included a bar to</b> 22 <b>them getting any kind of security clearance during their</b> 23 <b>first term of enlistment. It also barred them from</b> 24 <b>serving as officers in the Army.</b> 25 <b>They created a policy of continuous monitoring</b></p>
<p style="text-align: right;">Page 147</p> <p>1 BY MR. SWINTON: 2 Q. So we're back on the record after a lunch break. 3 Ms. Stock, did you discuss the deposition with 4 Mr. O'Donnell during the lunch break? 5 MR. O'DONNELL: I object and instruct her not to 6 answer. 7 MR. SWINTON: Sorry, Neil. Could you just for 8 the record explain the basis for your objection again. 9 MR. O'DONNELL: Communications between me and my 10 expert are privileged. 11 MR. SWINTON: I will ask again, do you have any 12 authority for that proposition? 13 MR. O'DONNELL: I think there's authority out 14 there, and it also conforms with my practice for the last 15 35 years and all the other attorneys I've practiced with. 16 MR. SWINTON: Do you have any authority you can 17 point me to? 18 MR. O'DONNELL: I don't have it with me. 19 BY MR. SWINTON: 20 Q. Ms. Stock, I want to talk a little bit about 21 your role as an expert in this case specifically. 22 What is your understanding of what this case is 23 about? 24 <b>A. This case is about unlawful discrimination</b> 25 <b>against people based on their national origin.</b></p>	<p style="text-align: right;">Page 149</p> <p>1 <b>of these individuals throughout their affiliation with</b> 2 <b>DoD. So even after they left the military, they were</b> 3 <b>going to be monitored if they were with a contractor. And</b> 4 <b>basically destroyed their careers in the military based on</b> 5 <b>their national origin.</b> 6 Q. What is your understanding of what your role 7 will be at trial as an expert witness? 8 <b>A. To testify as to the facts and my expert</b> 9 <b>understanding of the MAVNI program and the facts of the</b> 10 <b>MAVNI program, what happened during the MAVNI program.</b> 11 Q. Is it your understanding that you'll provide any 12 expert opinions in the case? 13 <b>A. Yes, it is.</b> 14 Q. And do you expect to testify to those expert 15 opinions at trial? 16 <b>A. I do.</b> 17 Q. So for your involvement in this case, has 18 Mr. O'Donnell asked you to reach any specific conclusions 19 as part of your expert opinions? 20 <b>A. He asked me to look at the case and come to my</b> 21 <b>own conclusions, and that's what I did. I wrote my own</b> 22 <b>expert report based on my understanding of the facts and</b> 23 <b>the law.</b> 24 Q. Did Mr. O'Donnell ask you to make any 25 assumptions for purposes of your report?</p>



<p style="text-align: right;">Page 150</p> <p>1     <b>A. He did not.</b></p> <p>2     Q. Are you being compensated for your work as an</p> <p>3 expert in this case?</p> <p>4     <b>A. I am not being compensated.</b></p> <p>5     Q. How would you describe the expertise that you're</p> <p>6 offering in this case?</p> <p>7     <b>A. Well, it's general expertise about immigration</b></p> <p>8 <b>law, citizenship law, national security law,</b></p> <p>9 <b>constitutional law, the genesis of the MAVNI program, the</b></p> <p>10 <b>functioning of the MAVNI program, the security concerns</b></p> <p>11 <b>created by the MAVNI program, the proper way to deal with</b></p> <p>12 <b>those security concerns in a way that meets constitutional</b></p> <p>13 <b>muster.</b></p> <p>14     Q. What is your expertise in all these different</p> <p>15 areas? What is that based on?</p> <p>16     <b>A. That's based on 28 years of me being in the</b></p> <p>17 <b>military police as a commissioned officer. It's based on</b></p> <p>18 <b>my experience and expertise as an immigration and</b></p> <p>19 <b>citizenship lawyer. It's based on my expertise teaching</b></p> <p>20 <b>on the faculty at the United States Military Academy at</b></p> <p>21 <b>West Point, New York where I was the director of the</b></p> <p>22 <b>National Security Law Program.</b></p> <p>23         <b>It's based on the multiple articles that I have</b></p> <p>24 <b>authored, book articles, book chapters, a book about</b></p> <p>25 <b>immigrants in the military. It's based on my experience</b></p>	<p style="text-align: right;">Page 152</p> <p>1     Q. How does that make your expertise different</p> <p>2 being an attorney?</p> <p>3     <b>A. Well, I have expert knowledge of immigration and</b></p> <p>4 <b>citizenship law, and we're talking about immigrants, and</b></p> <p>5 <b>so that knowledge comes to bear. In fact, that's why I</b></p> <p>6 <b>was selected to be the project officer for the program</b></p> <p>7 <b>originally, because I was uniquely qualified to provide</b></p> <p>8 <b>expertise to the Department of Defense as a project</b></p> <p>9 <b>officer for the program. They did not have anybody else</b></p> <p>10 <b>with that expertise.</b></p> <p>11     Q. How does your experience as an immigration</p> <p>12 attorney allow you to provide expert opinions in this</p> <p>13 case?</p> <p>14     <b>A. Well, it allows me to understand the immigration</b></p> <p>15 <b>background of the individuals in the case, what it means</b></p> <p>16 <b>to be a naturalized citizen, the process people go through</b></p> <p>17 <b>to become a naturalized citizen, what the law is regarding</b></p> <p>18 <b>the treatment of naturalized citizens, what the meaning of</b></p> <p>19 <b>national origin discrimination is. I also can evaluate</b></p> <p>20 <b>the security concerns. I'm considered a national expert</b></p> <p>21 <b>on immigration and national security.</b></p> <p>22     Q. Do you think only yourself and Ms. Verdugo are</p> <p>23 sufficiently qualified to be MAVNI program experts?</p> <p>24     <b>A. You know, that's a good question. There</b></p> <p>25 <b>probably are other people that have some expertise related</b></p>
<p style="text-align: right;">Page 151</p> <p>1 working at the Pentagon and interacting with the</p> <p>2 individuals involved in the MAVNI program and my</p> <p>3 involvement in the start-up of the MAVNI program, the</p> <p>4 running of the MAVNI program until I retired, and my</p> <p>5 interactions with individuals after I retired from the</p> <p>6 Army, and also my review of all the documents in the case,</p> <p>7 and so forth.</p> <p>8     Q. So you've listed quite a number of areas of</p> <p>9 expertise that you intend to -- that you think you offer</p> <p>10 in this case.</p> <p>11         Are there any other experts in these areas of --</p> <p>12 in these fields that you've mentioned?</p> <p>13     <b>A. There aren't any who have the expertise on the</b></p> <p>14 <b>MAVNI program, no.</b></p> <p>15     Q. Do you consider yourself to be an expert on the</p> <p>16 MAVNI program specifically?</p> <p>17     <b>A. Yes.</b></p> <p>18     Q. Do you consider yourself to be the only person</p> <p>19 qualified to serve as a MAVNI expert -- a MAVNI program</p> <p>20 expert?</p> <p>21     <b>A. No. I think Dr. Naomi Verdugo is qualified to</b></p> <p>22 <b>serve as a program expert, but her expertise is slightly</b></p> <p>23 <b>different from mine.</b></p> <p>24     Q. How is that?</p> <p>25     <b>A. She's not an attorney.</b></p>	<p style="text-align: right;">Page 153</p> <p>1 to the MAVNI program who could definitely come in and talk</p> <p>2 about different aspects of the program, but it would be</p> <p>3 very difficult to find somebody with expertise on all the</p> <p>4 intersecting areas that I've just mentioned. And that's</p> <p>5 just because there are very few attorneys in the country</p> <p>6 that do both immigration and national security law, and</p> <p>7 nobody that was involved in the MAVNI program was an</p> <p>8 attorney.</p> <p>9     Q. Is a MAVNI program expert an official title?</p> <p>10     <b>A. It's not an official title, no. It's a generic</b></p> <p>11 <b>title relating to having expertise in the MAVNI program.</b></p> <p>12     Q. Has anybody recognized you as being a MAVNI</p> <p>13 program expert?</p> <p>14     <b>A. Yes.</b></p> <p>15     Q. Other than Mr. O'Donnell?</p> <p>16     <b>A. I received an award from the Department of</b></p> <p>17 <b>Defense.</b></p> <p>18     Q. What was that award?</p> <p>19     <b>A. Joint Forces Commendation Medal from Admiral</b></p> <p>20 <b>Eric Olson, Special Operations Command.</b></p> <p>21     Q. Did that award state that you are a MAVNI</p> <p>22 expert?</p> <p>23     <b>A. He didn't mention MAVNI, but he mentioned that I</b></p> <p>24 <b>was an expert on immigration law and constitutional law</b></p> <p>25 <b>and that had helped in -- if you read the citation for the</b></p>

<p style="text-align: right;">Page 154</p> <p>1 award, you can tell what he's talking about.</p> <p>2 Q. What year did you receive the award?</p> <p>3 A. I don't recall, but it should be on my CV.</p> <p>4 Q. Did you receive the award before you retired</p> <p>5 from the Army?</p> <p>6 A. I did. And I received other awards, too, but</p> <p>7 you just mentioned -- I started listing them and you cut</p> <p>8 me off, so...</p> <p>9 Q. Okay. What other -- how else have you been</p> <p>10 recognized as a MAVNI program expert?</p> <p>11 A. The MacArthur Foundation gave me a MacArthur</p> <p>12 Fellowship in part because of my role in the MAVNI</p> <p>13 program.</p> <p>14 Q. As part of that fellowship, did they recognize</p> <p>15 you -- did they state that you're a MAVNI program</p> <p>16 expert?</p> <p>17 A. Yes.</p> <p>18 Q. Did they use that exact phrasing?</p> <p>19 A. I don't recall the exact phrasing that they</p> <p>20 used, but you could check their website and they have a</p> <p>21 video there describing it on their website.</p> <p>22 Q. Anything else? I don't want to leave anything</p> <p>23 out.</p> <p>24 A. I got other awards from the Army. I got a coin</p> <p>25 from the Secretary of the Army. He gave me a framed</p>	<p style="text-align: right;">Page 156</p> <p>1 were having a field hearing in Miami and he wanted me to</p> <p>2 come down and testify about, essentially, how they could</p> <p>3 have a MAVNI program. We didn't call it MAVNI then, but</p> <p>4 how we could use 10 United States Code 504(b)(2) to</p> <p>5 recruit more immigrants into the United States military.</p> <p>6 And so I would say starting at that point, that was kind</p> <p>7 of the beginning of what became the MAVNI program.</p> <p>8 Q. Other than Congressional testimony, have you</p> <p>9 ever testified under oath about the MAVNI program?</p> <p>10 A. I testified in a criminal case last year in</p> <p>11 Virginia about the MAVNI program.</p> <p>12 Q. What was your role in that case?</p> <p>13 A. The defense attorney in the case asked me to</p> <p>14 come in and testify generally, first in front of a</p> <p>15 judge-trying case and then in front of a jury, as to what</p> <p>16 the MAVNI program was and what was going on with the MAVNI</p> <p>17 program.</p> <p>18 Q. Were you designated an expert witness in that</p> <p>19 case?</p> <p>20 A. I don't know if I was designated as an expert.</p> <p>21 Q. Did you have to complete an expert report for</p> <p>22 that case?</p> <p>23 A. No.</p> <p>24 Q. Were you aware whether you were listed in any</p> <p>25 expert witness disclosures as part of that case?</p>
<p style="text-align: right;">Page 155</p> <p>1 commendation letter for my role being an expert involved</p> <p>2 with the MAVNI program.</p> <p>3 Q. The commendations and awards that you just made</p> <p>4 reference to, did any of them specifically state that</p> <p>5 you're a MAVNI program expert?</p> <p>6 A. I don't think they used the exact term, quote,</p> <p>7 "MAVNI program expert," end quote. They would say things</p> <p>8 like "expertise" and they would mention the word "Military</p> <p>9 Accessions Vital to the National Interests" as part of the</p> <p>10 general description of my expertise. Or in some cases</p> <p>11 they would talk about immigrant recruiting program.</p> <p>12 Q. Have you ever testified under oath in any form,</p> <p>13 other than the deposition today, about the MAVNI program?</p> <p>14 A. I have.</p> <p>15 Q. And on what occasions did you testify under oath</p> <p>16 about the MAVNI program?</p> <p>17 A. I testified in front of Congress.</p> <p>18 Q. And what part of Congress? Was that a</p> <p>19 committee?</p> <p>20 A. Well, I -- okay. So the start of the MAVNI</p> <p>21 program was technically July 10th, 2006, and I testified</p> <p>22 in front of the Senate Armed Services Committee. And we</p> <p>23 didn't call it the MAVNI program then, but John McCain had</p> <p>24 called me and asked me to come down to Miami, Florida and</p> <p>25 testify before the Senate Armed Services Committee. They</p>	<p style="text-align: right;">Page 157</p> <p>1 A. It was a local criminal trial, and I have no</p> <p>2 idea what got submitted. I didn't review any pleadings.</p> <p>3 I simply got asked to show up at the courthouse on a</p> <p>4 certain day and time, and I was sequestered and then I was</p> <p>5 brought into the courtroom and asked a bunch of questions,</p> <p>6 and then I was told that I could leave or remain and watch</p> <p>7 the rest of the trial. But I didn't do any written</p> <p>8 reports that I can recall, and I don't know what the</p> <p>9 criminal defense lawyer submitted.</p> <p>10 Q. I'm interested to know -- and feel free to list</p> <p>11 these if it's easier. But I'd just be interested to know</p> <p>12 if you could go through one by one what expert opinions</p> <p>13 are you offering in this case?</p> <p>14 A. Sure. You have my expert report. I'll go</p> <p>15 through them.</p> <p>16 Q. Well, without the report in front of you, I just</p> <p>17 would like you to tell me, what are your expert opinions</p> <p>18 that you intend to offer in this case.</p> <p>19 A. I would offer that Department of Defense has</p> <p>20 been engaging in an unconstitutional discriminatory policy</p> <p>21 against naturalized U.S. citizens who have entered the</p> <p>22 military through the MAVNI program, and that policy</p> <p>23 includes a number of sub things. And some of those</p> <p>24 policies started with the Peter Levine memo but have since</p> <p>25 been reversed summarily by the department, apparently</p>

<p style="text-align: right;">Page 158</p> <p>1 because the department is aware that the policies are 2 unconstitutional, so they aren't even attempting to defend 3 them. 4 In the course of the litigation they reversed 5 those -- some of those policies, but there are a couple 6 that still remain that are unconstitutional, national 7 origin discrimination. 8 Q. Anything else? 9 A. I mean, I would offer general facts about the 10 MAVNI program and how it's being administered or managed 11 at the moment, my observation of those facts. 12 Q. Anything else? 13 A. All my other facts and conclusions about 14 the issues that are being raised in the case. 15 Q. Anything else? 16 A. Let me think. I will go through my expert 17 report. I could talk about the history of the MAVNI 18 program, the claims in the case. 19 Q. I just want to remind you I'm interested to know 20 what expert opinions are you intending to offer. So I'll 21 differentiate those between factual summaries or summaries 22 of policies or pleadings in the case. But what expert 23 opinions do you intend to offer? 24 A. I will offer the opinion that the security 25 screening that is being done is both overinclusive and</p>	<p style="text-align: right;">Page 160</p> <p>1 policy. 2 Q. Is that the complete list? 3 A. And the ongoing discrimination against the 4 MAVNIs has caused a negative effect on their morale. The 5 CI screenings that are being conducted on the MAVNIs 6 appear to be conducted by people who are not trained, and 7 there's not a high level of quality control such that many 8 of the reports contain factual inaccuracies, incorrect 9 assumptions, and cases where there's been a deep 10 misunderstanding of immigration law, which is leading to 11 bad outcomes for the government in those reviews. 12 Q. Anything else? 13 A. The named plaintiffs in the class continue to 14 suffer harm due to the unconstitutional policies. And the 15 harms don't just apply to them when they're in the 16 military, but because DoD has a policy of continuing to 17 monitor people even after they leave the military and 18 become contractors, that this is going to continue to harm 19 them throughout their military careers even after they 20 leave the military, if they're employed by a contractor or 21 anybody affiliated with the Department of Defense. 22 Q. Anything else? 23 A. This has hurt all of them in their careers and 24 they can't perform the jobs for which they are supposed to 25 bring their special skills to bear in the military. The</p>
<p style="text-align: right;">Page 159</p> <p>1 underinclusive and doesn't meet the goals that the 2 department supposedly has laid out, which proves that it's 3 national origin discrimination. That the department 4 hasn't taken sufficient steps to inform people throughout 5 DoD and the services about changes in the policy, such 6 that people are still continuing to experience 7 discrimination even after DoD allegedly withdrew or 8 reversed some of the memos. 9 And that the plans to do continued 10 discriminatory continuous monitoring of the MAVNIs after 11 they naturalize and after they've cleared all the regular 12 background checks constitute national origin 13 discrimination, as well as the ongoing desire after the 14 naturalized citizens have finished their MSSD to subject 15 them to additional extreme vetting without any 16 individualized suspicion, even though such vetting isn't 17 done on other people who are citizens. 18 Q. Are there any other expert opinions? Is that a 19 comprehensive list? 20 A. I mean, I can also offer that -- the opinion the 21 memos that Peter Levine put out were, on their face, 22 unconstitutional. Probably should have shocked a 23 constitutional attorney. Should have been flagged by the 24 DoD general counsel as inappropriate and unconstitutional 25 and violative of Department of Defense equal opportunity</p>	<p style="text-align: right;">Page 161</p> <p>1 things they were recruited for they can't actually do, 2 because Department of Defense has made it impossible for 3 them to carry out those jobs in many cases. 4 So, for example, somebody is not allowed to join 5 Special Forces, even though one of the original purposes 6 of the MAVNI program was to bring people into Special 7 Forces, but DoD just says no. Now, that policy has been 8 reversed as a part of this lawsuit, but the lingering 9 effects of that continue and they're still continuing 10 negative effects on people's careers. 11 Q. Any other expert opinions that you intend to 12 offer in this case? 13 A. I'll rely on the opinions in my expert report. 14 I'm happy to read it to you if you'd like. 15 Q. No. I appreciate you going through it. It was 16 a little hard for me to pull out what the different 17 opinions were that were being offered, so I wanted to have 18 the conversation with you. 19 A. We can go through it line by line and I can 20 explain what I meant, if you want. 21 Q. Sure. I'm interested, when you talk about these 22 different opinions that you just went through, was there a 23 particular methodology that you used to reach these 24 opinions? 25 A. Sure. I used critical thinking.</p>

<p style="text-align: right;">Page 162</p> <p>1 Q. What do you mean by that?</p> <p>2 A. I also used my training and expertise as a</p> <p>3 lawyer and a military police officer. And I used the</p> <p>4 education I received at the institutions that I have</p> <p>5 attended, to include Harvard College, the John F. Kennedy</p> <p>6 School of Government, Harvard Law School and the Army War</p> <p>7 College and the Commander and General Staff College and</p> <p>8 the Combined Armed Services Staff School. And throughout</p> <p>9 all these educational institutions over the years I've</p> <p>10 been repeatedly trained on problem solving, cost-benefit</p> <p>11 analysis, analysis of numbers, and looking at data and</p> <p>12 coming to logical conclusions.</p> <p>13 Q. So is it fair to say that by critical thinking</p> <p>14 you mean applying the experiences and knowledge you've</p> <p>15 acquired from your professional career and from your</p> <p>16 education?</p> <p>17 A. Yes.</p> <p>18 Q. Was there any other methodology that you applied</p> <p>19 when you -- to reach these expert conclusions?</p> <p>20 A. Well, I'm trained as an attorney, so I applied</p> <p>21 the standard methodologies that attorneys use.</p> <p>22 Q. What's that methodology?</p> <p>23 A. Reviewing laws, statutes, thinking critically as</p> <p>24 lawyers do, and then I used standard, typical cost-benefit</p> <p>25 analysis sometimes.</p>	<p style="text-align: right;">Page 164</p> <p>1 do is, when you do national origin discrimination, you're</p> <p>2 supposed to -- you know, it's strict scrutiny. So the</p> <p>3 rule is it has to be narrowly tailored, and that wasn't</p> <p>4 what they were doing with the memo. They were classifying</p> <p>5 this entire group of people. More than 10,000 people were</p> <p>6 going to be discriminated against. And they were going to</p> <p>7 be discriminated against with an overly inclusive, and</p> <p>8 underly inclusive, set of security screenings that wasn't</p> <p>9 actually going to deal with what DoD apparently thought</p> <p>10 was the problem. And it was going to cost a tremendous</p> <p>11 amount of money. It was going to hurt the military to do</p> <p>12 what they were going to do. And it was also going to be</p> <p>13 illegal.</p> <p>14 Q. So is it fair to say that you used cost-benefit</p> <p>15 analysis to reach the conclusion that the policies being</p> <p>16 challenged in this case constitute unconstitutional</p> <p>17 national origin discrimination?</p> <p>18 A. Well, no. I didn't use cost-benefit to figure</p> <p>19 that out. That's a legal issue. But I used my legal</p> <p>20 training and my knowledge of constitutional law.</p> <p>21 Q. Then is it fair to say that you used cost-</p> <p>22 benefit analysis to determine whether the policies are</p> <p>23 narrowly tailored?</p> <p>24 A. It helps to inform that, yeah.</p> <p>25 Q. And your conclusion is that the policies are not</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. When you talk about applying the -- using the</p> <p>2 methodology that you -- from your experience as being an</p> <p>3 attorney, how did researching laws, statutes -- and</p> <p>4 statutes help you reach these expert conclusions -- expert</p> <p>5 opinions, I should say?</p> <p>6 A. Well, because I'm familiar with constitutional</p> <p>7 law, I know what national origin discrimination is.</p> <p>8 Q. How did the cost-benefit analysis play into</p> <p>9 reaching your expert opinions for this case?</p> <p>10 A. Well, when Mr. Levine's memo came out and I saw</p> <p>11 it, I realized that no one had done any sort of cost-</p> <p>12 benefit analysis on the case, on the memo. There had</p> <p>13 apparently been no cost estimates done of how much it was</p> <p>14 going to cost to carry out the alleged monitoring that was</p> <p>15 being ordered.</p> <p>16 It was clear that the government hadn't figured</p> <p>17 that out and hadn't done any analysis of what the impact</p> <p>18 was going to be on the individuals involved, the harm to</p> <p>19 their military careers, and that should have been done,</p> <p>20 but apparently it wasn't done when the memo was rolled</p> <p>21 out.</p> <p>22 Q. And how is the cost-benefit methodology -- how</p> <p>23 is that specifically tied to the opinions you intend to</p> <p>24 offer as an expert in this case?</p> <p>25 A. Well, one of the things that you're supposed to</p>	<p style="text-align: right;">Page 165</p> <p>1 narrowly tailored?</p> <p>2 A. It's obvious they're not narrowly tailored.</p> <p>3 Q. We'll mark this as A.</p> <p>4 (Exhibit A marked)</p> <p>5 Q. So Ms. Stock, I just handed you a six-page</p> <p>6 document dated October 5th, 2018. It's been marked as</p> <p>7 Exhibit A. The document has your name at the top and says</p> <p>8 "Expert Witness Report."</p> <p>9 Have you seen this document before?</p> <p>10 A. Yes, I have.</p> <p>11 Q. And is this your expert report for the case?</p> <p>12 A. It is.</p> <p>13 Q. Did you prepare this report?</p> <p>14 A. I did.</p> <p>15 Q. Did you receive any help in preparing your</p> <p>16 expert report?</p> <p>17 A. No.</p> <p>18 Q. Did anybody review a draft of it?</p> <p>19 A. I had people at my office review it for typos.</p> <p>20 Q. How many people at your office reviewed it?</p> <p>21 A. I don't know. I had sent it to somebody and</p> <p>22 said, check it for typos.</p> <p>23 Q. Other than typos, did anybody provide any</p> <p>24 feedback on the draft?</p> <p>25 A. Feedback on the draft? No.</p>



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1 Q. How long did it take you to prepare this report?

2 **A. It probably took me five or six hours, but I**

3 **didn't keep track of my time.**

4 Q. We're going to look at different sections of it,

5 but I actually want you to start by turning to the last

6 page, which has your signature on it. And the last

7 paragraph with the heading -- the heading is "Compensation

8 for Study and Testimony in this Case," and the last

9 sentence in that paragraph says, "I am providing my time

10 and testimony on a 'pro bono' basis."

11 What do you mean by "pro bono" in that sentence?

12 **A. Means I'm not being compensated. I'm**

13 **volunteering to provide my time and testimony.**

14 Q. Is that time coming from time you would have

15 otherwise spent working for -- on cases with your law

16 firm?

17 **A. Yes, it is.**

18 Q. So I'd like to turn to the first page under

19 "Opinions," and the third paragraph says, "To date, there

20 has been no public information indicating that any

21 naturalized United States citizen who enlisted through the

22 MAVNI program has engaged in any actual or attempted

23 espionage or terrorism activity."

24 What is the basis for this statement?

25 **A. I review the Department of Justice press feed**

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1 **every day. I review military newspapers. Every day I get**

2 **a feed on Military Times, Army Times, so forth. I**

3 **reviewed the RAND report that was produced in this case.**

4 Q. Anything else that you reviewed in order to

5 reach this conclusion?

6 **A. Newspaper articles.**

7 Q. So I want to ask you about some of the phrases

8 in this sentence.

9 What do you mean by "actual or attempted"?

10 **A. Actual or attempted. You know, spying,**

11 **terrorism.**

12 Q. And I'm actually just interested only in the

13 phrase "actual or attempted."

14 What do you mean by "actual or attempted"?

15 **A. "Actual" meaning they actually did it, or**

16 **attempting to do it, but not actually carrying it out. I**

17 **think that's what I meant.**

18 Q. What do you mean by "espionage"?

19 **A. Spying.**

20 Q. Is "espionage" synonymous with "spying," to your

21 understanding?

22 **A. It would be gathering information that you're**

23 **going to send to a foreign adversary, you know, collecting**

24 **information that you're going to send to the bad guys on**

25 **purpose.**

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1 Q. Does "espionage" include any other type of

2 conduct?

3 **A. I mean, typically it means spying, looking at**

4 **information and passing it to the bad guys, basically.**

5 Q. And that's the meaning that you intended for it

6 to have in this sentence?

7 **A. I intended to use the common dictionary meaning.**

8 Q. What did you mean by "terrorism activity"?

9 **A. The definition of "terrorism" is hotly debated,**

10 **but I think I meant it in the generic sense of what the**

11 **public understands to be "terrorism."**

12 Q. What's that?

13 **A. Having a shooting, killing, trying to hurt**

14 **people for political purposes. You know, Major Nidal**

15 **Malik Hasan at Fort Hood I would consider to be terrorism,**

16 **because he was apparently radicalized over the Internet**

17 **and was killing people in the name of his purported**

18 **political or religious beliefs. But the definition of**

19 **"terrorism" gets hotly debated and I meant it in the**

20 **generic, common sense understanding.**

21 Q. Since it's hotly debated, is there a generic and

22 common sense understanding of the word "terrorism"?

23 **A. There's a lot of debate about it, but I think**

24 **most people understand it when they see it. You know,**

25 **they think it's somebody that's motivated rather than by**

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1 **personal like, you know, domestic violence, versus yelling**

2 **"Allahu akbar" when you kill people.**

3 Q. Ms. Stock, are you aware of any planned or

4 implemented acts of espionage or terrorism by non-U.S.

5 citizen MAVNIs?

6 **A. I'm aware of one case involving Chaoqun Ji, but**

7 **he is not a naturalized United States citizen.**

8 Q. What are you aware of with Mr. Ji's case?

9 **A. Well, a few weeks ago he hit the news when he**

10 **got charged by the federal government with failure to**

11 **register as a foreign agent, and I read the criminal case**

12 **that was published -- I read the Department of Justice**

13 **press release about it, and I read the document that the**

14 **government produced on the web and that they posted on the**

15 **web about him.**

16 Q. As a retired Army officer, would you have any

17 reason today to be informed about planned or implemented

18 acts of espionage by MAVNI soldiers, other than what you

19 read from publicly available information?

20 **A. Yeah. People might e-mail me or call me or tell**

21 **me they saw something or they heard something. I've had**

22 **that happen in the past. Not MAVNIs, but like people**

23 **trying to get into the MAVNI program, and that happened**

24 **relatively recently. And I can tell you more about that,**

25 **if you're interested.**

<p>Page 170</p> <p>1 Q. Not right now. But I do want to ask a little 2 bit more about your answer. 3 So other than publicly available information, 4 such as news articles, my understanding is that you would 5 hear about planned or implemented acts of espionage by 6 MAVNI soldiers through word of mouth, effectively; is that 7 correct? 8 <b>A. I don't know word of mouth. People have tried 9 to get into the MAVNI program who are sketchy characters, 10 so to speak, and people alert me to the fact that people 11 are trying to get into the MAVNI program who are sketchy 12 characters, and it's not necessarily word of mouth. 13 Sometimes they see something posted somewhere on social 14 media.</b> 15 Q. And then if they see something posted on social 16 media, they will contact you about it? 17 <b>A. They contact me about it because they don't know 18 who to report it to and they ask me who to report it to.</b> 19 Q. Do you report that information? 20 <b>A. I do, yeah. I have in the past. It's not just 21 the MAVNI program. It's people who think sketchy 22 characters are trying to get into the military. Sometimes 23 they'll call me and ask me, who do you report it to? Not 24 just MAVNIs, but U.S. citizens trying to come into the 25 military who are sketchy and other folks trying to come</b></p>	<p>Page 172</p> <p>1 <b>at first didn't realize that the U.S. government was 2 recruiting Chinese-language MAVNIs, and when they realized 3 that large numbers of Chinese in the United States were 4 joining the U.S. military, they got upset about that and 5 they started blocking the search term "MAVNI" on the 6 Internet in China so you couldn't do searches for the term 7 "MAVNI."</b> 8 <b>They allowed attacks to take place on Chinese 9 language websites where a newspaper article appeared in 10 English and it got translated into Chinese and put on a 11 Chinese language website. They would allow people in 12 China to attack the MAVNIs on those websites. And the 13 Chinese government kind of controls what people are and 14 are not allowed to say in China about certain topics, and 15 it was perfectly okay in China to attack MAVNIs who had 16 entered the United States military through the MAVNI 17 program who could do that openly and there was no problem 18 with doing that. That was okay. And then there were just 19 like lots of attacks on MAVNIs on Chinese-language 20 websites and so forth.</b> 21 Q. So other than the threats you've described to 22 individuals who enlisted in the military through the MAVNI 23 program, are you aware of any evidence that's come to 24 light since you retired from the Army that relate to 25 security threats posed by the MAVNI program?</p>
<p>Page 171</p> <p>1 in. 2 Q. Are you aware of any evidence that's come to 3 light since you left your position -- since you retired 4 from the Army in 2010 relating to security threats 5 associated with the MAVNI program? 6 <b>A. Well, I've read numerous documents indicating 7 that the Chinese government is unhappy with the fact that 8 Chinese citizens are -- or have enlisted in the Army 9 through the MAVNI program.</b> 10 Q. What are those documents? 11 <b>A. Well, there are various newspapers that are 12 published in China and elsewhere that are -- talk about 13 the MAVNI program. There are threats posted against 14 members of the MAVNI program on the Internet in China. 15 There are threats posted on Chinese-language websites that 16 contain direct threats against members of the MAVNI 17 program who are presumably of Chinese descent.</b> 18 Q. What are the threats? 19 <b>A. Kill the MAVNIs. The MAVNIs should be killed. 20 Traitors. You know, stuff like that. Capitalists. Pig 21 MAVNI. I mean, there's a lot of threats using pretty 22 terrible language.</b> 23 Q. What is your understanding of why these threats 24 are being made? 25 <b>A. My understanding is that the Chinese government</b></p>	<p>Page 173</p> <p>1 <b>A. Well, I mean, I've read all of DoD's 2 announcements and newspaper articles talking about how the 3 MAVNIs are a threat. I read Christopher Arendt's 4 affidavits and other people's affidavits where they talk 5 about the threats posed by the MAVNIs. I get reports from 6 different people telling me that people at DoD are 7 claiming that there's a threat from the MAVNI program. 8 I've talked to retired CIA officers who have discussed the 9 threats from the MAVNI program with me.</b> 10 Q. Anything else? 11 <b>A. I don't know. I read a lot of reports and 12 information about -- you know, newspaper articles.</b> 13 Q. You said you get reports from different people. 14 What type of reports do you get from people and 15 who are the people you're getting them from? Let's start 16 with who are the people you're getting this information 17 from? 18 <b>A. Well, former DoD officials have contacted me to 19 tell me that people at DoD have been claiming that there's 20 a threat posed by the MAVNI program. And I've discussed 21 that with them.</b> 22 Q. Anyone other than former DoD officials? 23 <b>A. I mean, that -- DoD, intelligence community 24 people.</b> 25 Q. What intelligence -- what agencies in the</p>

<p>Page 174</p> <p>1 intelligence community have you had discussions about in</p> <p>2 terms of the reports that you're getting about the MAVNI</p> <p>3 program and the threats that it poses?</p> <p>4 <b>A. Well, I haven't had a discussion with the</b></p> <p>5 <b>agency. I've had discussions with people that work for</b></p> <p>6 <b>the agency or have worked for the agency in the past.</b></p> <p>7 Q. I apologize that that was poorly worded.</p> <p>8 I'm interested to know to what agencies the</p> <p>9 individuals in the intelligence community belong, who</p> <p>10 you've discussed the threats posed by the MAVNI program?</p> <p>11 <b>A. Department of Defense, Homeland Security, Office</b></p> <p>12 <b>of the Director of National Intelligence, National</b></p> <p>13 <b>Security Council, State Department, CIA.</b></p> <p>14 Q. Again, I want to contain this line of</p> <p>15 questioning only to discussions you've had since you</p> <p>16 retired from the Army.</p> <p>17 But the individuals you're talking to in the</p> <p>18 intelligence community, are you talking to officials who</p> <p>19 are currently employed by these agencies when you refer to</p> <p>20 that?</p> <p>21 <b>A. In some cases, yeah.</b></p> <p>22 Q. Which agencies have you talked to -- to what</p> <p>23 agencies do individuals who are currently employed belong,</p> <p>24 when you've had these discussions?</p> <p>25 <b>A. All these agencies.</b></p> <p>Page 175</p> <p>1 Q. So you've talked to current employees at the</p> <p>2 Department of Homeland Security?</p> <p>3 <b>A. Uh-huh.</b></p> <p>4 Q. How many?</p> <p>5 <b>A. A lot of them. I mean, they're -- I interact</b></p> <p>6 <b>with them on a regular basis.</b></p> <p>7 Q. These conversations again are specifically about</p> <p>8 security threats posed by the MAVNI program.</p> <p>9 How many officials -- how many current officials</p> <p>10 of the Department of Homeland Security have you talked to</p> <p>11 about threats posed by the MAVNI program?</p> <p>12 <b>A. Since I retired?</b></p> <p>13 Q. Correct.</p> <p>14 <b>A. Probably more than 25.</b></p> <p>15 Q. How many current officials at ODNI have you</p> <p>16 talked to about threats posed by the MAVNI program since</p> <p>17 you retired?</p> <p>18 <b>A. Since I retired, probably three to five.</b></p> <p>19 Q. How many officials at the State Department have</p> <p>20 you talked to about threats posed by the MAVNI program</p> <p>21 since you retired?</p> <p>22 <b>A. Probably -- probably the same, three to five.</b></p> <p>23 Q. How many officials of the CIA have you talked to</p> <p>24 about threats posed by the MAVNI program since the time</p> <p>25 you retired?</p>	<p>Page 176</p> <p>1 <b>A. I don't know for sure. I don't know for sure</b></p> <p>2 <b>about that one, because I'm not sure if they were</b></p> <p>3 <b>currently working or not.</b></p> <p>4 Q. So the current employees at the Department of</p> <p>5 Homeland Security, ODNI, the State Department, the CIA who</p> <p>6 you've talked to about programs -- or about security</p> <p>7 concerns with the MAVNI program, have they provided you</p> <p>8 with any evidence about the security concerns?</p> <p>9 <b>A. Well, the context is I'm at a meeting and they</b></p> <p>10 <b>talk to me about the security concerns of the MAVNI</b></p> <p>11 <b>program. So it's not a court proceeding. So nobody is</b></p> <p>12 <b>giving me evidence. They're discussing what, you know,</b></p> <p>13 <b>the concerns are and what they've heard. They're asking</b></p> <p>14 <b>me what I know.</b></p> <p>15 Q. I didn't mean evidence in terms of a legal</p> <p>16 proceeding. I just meant factual information.</p> <p>17 Have they provided you with factual information</p> <p>18 about security concerns posed by the MAVNI program?</p> <p>19 <b>A. Sure. They tell me that somebody said</b></p> <p>20 <b>something, and maybe they point to a newspaper article and</b></p> <p>21 <b>they say, what about this? Or they say, Chris Arendt at</b></p> <p>22 <b>DoD said blah-blah-blah or there was a DoD IG report that</b></p> <p>23 <b>said blah-blah-blah or there's a RAND report that says</b></p> <p>24 <b>this, this, and this. But nobody is, like, handing me</b></p> <p>25 <b>evidence. I mean, that's not how the conversations go.</b></p> <p>Page 177</p> <p>1 Q. Sure. Are they telling you any information --</p> <p>2 actually, let me ask a different question.</p> <p>3 Let's go back to your expert report. So the</p> <p>4 fourth paragraph is very lengthy. And I'm interested in</p> <p>5 the second sentence, which starts, "The available public</p> <p>6 data demonstrates."</p> <p>7 What is the available public data that you're</p> <p>8 referring to here?</p> <p>9 <b>A. This would be reports about prosecutions,</b></p> <p>10 <b>charges. A big source of information I think is the</b></p> <p>11 <b>Department of Justice news feed. They have a very handy</b></p> <p>12 <b>feature at the Department of Justice where you can get a</b></p> <p>13 <b>press release every day whenever DOJ charges somebody with</b></p> <p>14 <b>national security.</b></p> <p>15 <b>I also subscribe to various databases and</b></p> <p>16 <b>reports that send me reports, and there's a group of --</b></p> <p>17 <b>and I was a national security law professor, so I belong</b></p> <p>18 <b>to different national security law professors' groups</b></p> <p>19 <b>where we get feeds on prosecutions and indictments, so</b></p> <p>20 <b>forth.</b></p> <p>21 Q. And you keep saying the word "reports."</p> <p>22 Are you referring to news articles?</p> <p>23 <b>A. News articles and sometimes like an aggregate</b></p> <p>24 <b>report, you know, kind of like what the Cato report --</b></p> <p>25 <b>Cato did.</b></p>
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<p style="text-align: right;">Page 178</p> <p>1 Q. So news articles and other articles from public 2 interest organizations? 3 <b>A. No. Sometimes they're internal. Like the CIA 4 has a website and you can go to their website and they 5 list stuff on there and they talk about espionage and what 6 causes espionage. You know, they have articles where they 7 give examples of espionage cases that have different 8 advice articles and historical documents and that sort of 9 thing.</b> 10 Q. So what reports and other public data 11 specifically did you rely on to reach the conclusion that 12 native-born U.S. citizens are often recruited by foreign 13 adversaries to spy on or attack the United States? 14 <b>A. Well, I relied on my general knowledge. I've 15 been studying this area for years and I read a lot about 16 it. For example, I have read in the last year Jim 17 Clapper's book Facts and Fears, where he talks about 18 foreign adversaries spying on or attacking the United 19 States; and he goes through a whole bunch of famous cases 20 involving native-born Americans who are doing bad things, 21 including Nidal Malik Hassan, Chelsea Manning. He talks 22 about Edward Snowden. I didn't mention Edward Snowden in 23 here because he wasn't a member of the military at the 24 time he carried out his bad act. He was a former member 25 of the military.</b></p>	<p style="text-align: right;">Page 180</p> <p><b>1 relating to national security. I've contributed to books, 2 national security law textbooks. So I've read the entire 3 textbook. That sort of thing.</b> 4 Q. So I guess I'm asking, if someone wanted to 5 verify the accuracy of the statement that "native-born 6 United States citizens are often recruited by foreign 7 adversaries to spy on or attack the United States" and 8 wanted to check your work, what work did Ms. Stock -- what 9 available public data did Ms. Stock consider when she 10 reached the conclusion in the sentence, could you provide 11 an exhaustive list of that? 12 <b>A. Well, it would be extremely long and it would 13 have to -- you know, it would be an enormous amount of 14 materials. It would probably be extraordinarily 15 burdensome to give you all the books I have in my basement 16 on people spying on the U.S. and trying to attack the U.S. 17 I mean, it dates back to 1775 when the Brits recruited 18 Benedict Arnold. You know, American military history 19 books, espionage books, articles. And it's my profession 20 to look at that kind of thing. It would be 21 extraordinarily burdensome, yes, for me to come up with a 22 comprehensive list of everything I've written in 28 years 23 relating to --</b> 24 Q. Sure. And I'm not actually asking you to do it. 25 I'm just asking if it's possible to do. I understand</p>
<p style="text-align: right;">Page 179</p> <p><b>1 But I read a lot of reports about people in the 2 military and what they're doing. It's my profession, so I 3 am very much interested in it. I'm interested in national 4 security threats posed by immigrants because I've written 5 widely on that topic and studied that topic. And I've 6 worked extensively with the Department of Homeland 7 Security to try to prevent that sort of thing with the 8 MAVNI program when it started.</b> 9 Q. If I were to ask you to create an exhaustive 10 list of the public data that you relied upon to reach this 11 conclusion, would you be able to do that? 12 <b>A. It would take me quite a long time.</b> 13 Q. Why is that? 14 <b>A. Because I've been a military police officer for 15 28 years and I've collected a lot of information.</b> 16 Q. Is that information you got from being a 17 military police officer public? 18 <b>A. I'm talking about like books and -- I mean, I 19 have a whole stack of books at home that I've read, like 20 Jim Clapper's book Facts and Fears. I read memoirs by Bob 21 Gates. He was CIA -- he was Secretary of Defense. I 22 read -- comprehensively read up on who is trying to attack 23 the United States and why.</b> 24 <b>I taught national security law, so I spent a lot 25 of time reading accounts of things that are court cases</b></p>	<p style="text-align: right;">Page 181</p> <p>1 you're saying it's burdensome. So I just want to make 2 sure I understand that you answered the question. 3 From what you're saying, I understand your 4 answer is, no, that you're not able to come up with an 5 exhaustive list of the public data that the sentence we've 6 been examining is based on. 7 <b>A. I mean, I could come up with articles that talk 8 about native-born American citizens being recruited by 9 foreign adversaries, yes. Can I come up with every single 10 thing I've read in my whole life that talks about that? 11 I've been on the planet for more than 50 years, so that 12 would be extremely difficult, burdensome. I would have to 13 take a whole year and think of every book I've ever read 14 in my life.</b> 15 Q. So let's go on to the next page. Page 2. And 16 the top paragraph which continues over from the first 17 page, the last sentence in that paragraph starts, "If the 18 Department of Defense has concerns about the bad behavior 19 of a particular naturalized U.S. citizen MAVNI." 20 What do you mean by "bad behavior"? 21 <b>A. Well, from reading the court documents that DoD 22 filed, they apparently are afraid of -- it appears they're 23 afraid of espionage or terrorism behavior, and if in fact 24 somebody who is a naturalized U.S. citizen MAVNI committed 25 espionage or engaged in terrorism activity, what you would</b></p>



<p style="text-align: right;">Page 182</p> <p>1 do is the normal thing that you do with any military</p> <p>2 member who engages in such activity, you do an</p> <p>3 investigation and you determine the facts and you</p> <p>4 prosecute that person pursuant to long-standing</p> <p>5 authorities. You don't just decide that you're going to</p> <p>6 discriminate against everybody who shares one</p> <p>7 characteristic with that particular individual who did the</p> <p>8 bad thing.</p> <p>9 And I gave examples of that in the following</p> <p>10 paragraph. Nidal Malik Hasan was born in America, native-</p> <p>11 born American citizen. He committed the atrocity at Fort</p> <p>12 Hood. He killed 13 fellow soldiers, including three</p> <p>13 immigrants who had been recruited into the military at one</p> <p>14 point and had earned their citizenship through military</p> <p>15 service. So three of his victims were naturalized U.S.</p> <p>16 citizens serving in the military.</p> <p>17 Rather than responding to that incident by</p> <p>18 enhanced screening or doing continuous monitoring of every</p> <p>19 single member of the military with an Arabic name, the</p> <p>20 military presumably should have taken steps to prevent an</p> <p>21 individual who is visiting radical websites and making</p> <p>22 comments to his fellow soldiers from being able to get a</p> <p>23 security clearance and be in the military. That would</p> <p>24 have been a more narrowly tailored thing to investigate</p> <p>25 that guy rather than spending millions and millions of</p>	<p style="text-align: right;">Page 184</p> <p>1 <b>constitutional strict scrutiny test.</b></p> <p>2 Q. What's your understanding of that phrasing?</p> <p>3 What does it mean to be narrowly tailored?</p> <p>4 A. Well, the government is not supposed to do</p> <p>5 something that's overly broad, overinclusive, or</p> <p>6 underinclusive either, frankly. If they're going to</p> <p>7 discriminate against people who are in a protected</p> <p>8 category, they have to tailor their discrimination in a</p> <p>9 way that causes the least harm in a way to the group.</p> <p>10 Q. So you're using it in the legal sense as it</p> <p>11 pertains to the strict scrutiny analysis?</p> <p>12 A. The strict scrutiny test, right.</p> <p>13 Q. The next paragraph says, "If DoD has an</p> <p>14 individual concern about a particular MAVNI soldier, DoD</p> <p>15 can investigate that individual."</p> <p>16 What do you mean by "investigation" in this</p> <p>17 sentence?</p> <p>18 A. DoD can approach the individual and ask him</p> <p>19 questions. They can use normal investigative methods.</p> <p>20 They could polygraph the person potentially, depending on</p> <p>21 the situation. They could charge him with a crime if</p> <p>22 they've committed a crime. They could call them in for a</p> <p>23 CI screening, the normal thing that they would do if they</p> <p>24 think somebody has done something related to espionage.</p> <p>25 Normally the counterintelligence folks would</p>
<p style="text-align: right;">Page 183</p> <p>1 taxpayer dollars on screening of everybody with an Arabic</p> <p>2 name.</p> <p>3 Q. So I want to go back to something you said at</p> <p>4 the start of your answer. You said that it appears DoD is</p> <p>5 afraid of espionage and terrorism.</p> <p>6 Do you think the Department of Defense has</p> <p>7 reason to be concerned about espionage?</p> <p>8 A. Oh, absolutely. Yep.</p> <p>9 Q. Do you think DoD has reason to be concerned</p> <p>10 about terrorism?</p> <p>11 A. Absolutely. Look at Nidal Malik Hasan.</p> <p>12 Q. Also in that sentence and then the next one, I</p> <p>13 want to look at two phrases that appear -- or a phrase</p> <p>14 that appears in both sentences. So in this first</p> <p>15 paragraph at the top of the page that's continued over,</p> <p>16 you say, "The narrowly tailored and lawful way to address</p> <p>17 those issues," and then the first sentence in the next</p> <p>18 paragraph you say, "If there's a risk here, what DoD is</p> <p>19 doing is not narrowly tailored."</p> <p>20 Is that "narrowly tailored" phrasing -- does it</p> <p>21 mean the same thing in both paragraphs?</p> <p>22 A. I think so. Narrowly tailored. I don't think I</p> <p>23 was coming up with a new meaning for "narrowly tailored."</p> <p>24 Q. What do you mean by "narrowly tailored"?</p> <p>25 A. The common legal meaning of that in a</p>	<p style="text-align: right;">Page 185</p> <p>1 come in and start asking questions. They might get a</p> <p>2 search warrant. They might read somebody their Article 31</p> <p>3 rights and ask them questions. They might call the FBI.</p> <p>4 They might coordinate with other intelligence agencies or</p> <p>5 Department of Homeland Security to gather information.</p> <p>6 Q. The next paragraph, the phrase at the end after</p> <p>7 the comma says, "DoD could add narrowly tailored</p> <p>8 additional screening to MAVNI recruits from that country."</p> <p>9 Is the narrowly tailored language there the</p> <p>10 same -- do you mean it in the same sense as the previous</p> <p>11 two references on this page?</p> <p>12 A. I did.</p> <p>13 Q. And again, that's the legal meaning of narrowly</p> <p>14 tailored as it pertains to the strict scrutiny analysis?</p> <p>15 A. Yes.</p> <p>16 Q. The fifth paragraph, the second sentence is very</p> <p>17 short. It says, "Yet this is simply not true." And I</p> <p>18 think it's responding to the first sentence where you say,</p> <p>19 "DoD has stated repeatedly that enhanced group screening</p> <p>20 of all MAVNI program participants is necessary because</p> <p>21 MAVNI program recruits have spent less time in the United</p> <p>22 States than other recruits."</p> <p>23 What's the basis on which you state that your</p> <p>24 characterization of DoD's prior statements is not true?</p> <p>25 A. Well, it's not the case that MAVNI program</p>

<p style="text-align: right;">Page 186</p> <p>1 recruits have necessarily spent less time in the United 2 States than other recruits. 3 Q. How do you know that? 4 A. I know that because I'm familiar with people 5 coming into the Army, and there are lots of people who 6 come into the Army who have spent less time in the United 7 States than MAVNI program recruits. 8 Q. The third sentence says, "Many native-born 9 military recruits have spent very little time in the 10 United States." 11 How many native-born military recruits do you 12 mean by "many"? 13 A. Well, we don't know because DoD doesn't announce 14 that information. They only announce the citizenship of 15 the person. But from talking to lots of recruits, I know 16 that many of them have spent very little time in the 17 United States. 18 Q. Can you provide an estimate of how many 19 native-born recruits have spent very little time in the 20 United States? 21 A. Hundreds. Hundreds per year. 22 Q. Is it more than 500? 23 A. Can't tell you because DoD doesn't release the 24 data. They just put people as citizens or not. 25 Q. How many do you have firsthand knowledge of --</p>	<p style="text-align: right;">Page 188</p> <p>1 and they join the U.S. military. They've had to teach 2 them English in many cases because they don't speak 3 English very fluently. 4 And it's not just the case with Mexico, but it's 5 pretty common. Canada. There's a lot of people that 6 derive U.S. citizenship overseas through a parent or a 7 grandparent. Ted Cruz is an example. So somebody like 8 Ted Cruz, he was born in Canada. He's a U.S. citizen at 9 birth because he derived it from his mother but he was not 10 born in the United States. And there's an enormous number 11 of people who are American citizens at birth who weren't 12 born in the United States and then come back to the U.S. 13 You know, they're American citizens on a passport and they 14 join the U.S. military. Those are fairly common in 15 today's global world. 16 Q. Are you aware of any statistics that show that 17 many native-born military recruits have spent very little 18 time in the United States? 19 A. As far as I can tell, DoD doesn't track it. And 20 so I'm not aware of statistics. I know when working with 21 the Defense Manpower Data Center, at one point we tried to 22 get that data when I was the program officer for MAVNI and 23 they told us they couldn't get it because they didn't have 24 fidelity on the data. 25 Q. So is it fair to say that the conclusions in</p>
<p style="text-align: right;">Page 187</p> <p>1 how many native-born military recruits do you have 2 firsthand knowledge of that they spent very little time in 3 the United States? 4 A. Lots, but I can't give you a firm number. 5 Q. Would you say it's -- 6 A. I mean, I'm an immigration lawyer so I usually 7 hear about it because the person came over to the United 8 States to join the military, and I hear either because 9 they're trying to get their family members' papers or they 10 just came over and now they're in the military or they 11 spent a lot of time overseas. 12 Q. Is it fair to say that this is a generalization 13 based on your work as an immigration lawyer? 14 A. Well, it's also based on my experience as a 15 military officer. I mean, I've talked to lots of people 16 in ranks that -- we live in a global world right now, and 17 so it's fairly common for somebody to be born in the U.S. 18 and not spend much time in the U.S. After they're born, 19 their parents take them overseas and they grow up outside 20 the United States, and then when they get older, they come 21 back to the U.S. 22 That's a really common pattern these days, 23 particularly folks from Mexico. There have been an 24 enormous number of people born in America who have 25 basically grown up in Mexico who then come back as adults</p>	<p style="text-align: right;">Page 189</p> <p>1 this sentence are based on your personal experience as 2 well as anecdotal information you've heard from other 3 people? 4 A. And also my expert work. 5 Q. And in that same sentence, you say, "Very little 6 time in the United States." 7 What do you mean by very little time? 8 A. Well, it's possible to derive American 9 citizenship through a parent or a grandparent and you 10 might have never been in the United States at all your 11 entire life, but you're an American citizen. And then you 12 can fly back to the United States and join the military as 13 a U.S. citizen. You've had a U.S. passport since your 14 birth, but you've never lived in America, might never even 15 have been in America at all. 16 Q. Are native-born military recruits who spent five 17 years in the United States prior to joining, is that very 18 little time? 19 A. I think that's a substantial amount of time. 20 I'm thinking more of less than that, I think. 21 Q. How much are you thinking of when you say "very 22 little time" in this part of your report? 23 A. It could be less than five years, less than two 24 years. They might have only been here a few weeks. 25 That's possible.</p>

1 Q. Is there a cut-off range by what you mean by  
2 "very little time"?  
3 A. Well, I think, you know, DoD has not been clear  
4 on what they mean by substantial time in the United  
5 States. But my thinking would be less than five years,  
6 probably.  
7 Q. So by "very little time" in this sentence, you  
8 mean less than five years; is that correct?  
9 A. Well, I mean very little time. So they might  
10 have been here for two weeks and they just flew over to  
11 join the military and that's it. It might be much less  
12 than five years.  
13 Q. Sure. I think you can appreciate that "very  
14 little time" is a somewhat ambiguous statement --  
15 A. It is.  
16 Q. -- so I'm trying to figure out what you mean by  
17 "very little time."  
18 A. Well, the example I gave here was a guy that was  
19 in the newspaper and the Army allowed him to enlist in the  
20 military and they shipped him out to training without any  
21 kind of vetting of any serious kind. They did the regular  
22 enlistment checks that they do on any military recruit and  
23 he apparently cleared all those. They didn't do a Tier 3.  
24 They didn't do a CI-focused security screening and  
25 certainly didn't do a Tier 5 or an SSBI.

1 And he shipped off to training and the only  
2 reason they found out about him is because the Washington  
3 Post decided to do a story about how he had spent time  
4 fighting with Russian separatists in Ukraine and was  
5 working with these anti-American extremist groups in  
6 Europe.  
7 And he would never have come to light except for  
8 the Washington Post doing a story. And it turned out he  
9 was serving in an infantry unit and had spent very little  
10 time in the United States. He apparently derived his  
11 American citizenship through his mother. So I don't know  
12 the sum total of how much time he spent in America, but it  
13 was very little time.  
14 And then the next sentence points to the fact  
15 that --  
16 Q. Sorry. I'm actually going to stop you here,  
17 because I have the report. I want to keep the focus on  
18 the "very little time" language.  
19 Are you aware of any statistics that show the  
20 amount of time native-born military recruits have spent in  
21 the United States before they enlist?  
22 A. Am I aware of any statistics?  
23 Q. Uh-huh.  
24 A. No, because the DoD doesn't track that.  
25 Q. Same question --

1 A. Except for the Pacific Islanders. We know they  
2 haven't spent any time. Because they're recruited  
3 overseas and they only show up in the United States to  
4 show up for training. So they have no time in the United  
5 States before they pop over. Maybe there's an isolated  
6 case of a person that's visited the U.S. or something, but  
7 the Pacific Islanders are -- that number -- I don't know  
8 what that number is. They could pull it off DMDC. But  
9 those folks have spent zero time in the United States  
10 before they enlist.  
11 Q. The last sentence in this paragraph states,  
12 "Many green card holders have spent only a few days or  
13 weeks in the United States before they're permitted to  
14 enlist."  
15 Do you know how many green card holders have  
16 spent only a few days or weeks in the United States before  
17 they're permitted to enlist?  
18 A. Okay. So green card holders have been enlisting  
19 in the military for a really long time. You're asking if  
20 I know in the history of the country?  
21 Q. I'm asking if you have a numerical support for  
22 the statement "many green card holders" in this sentence.  
23 A. Well, it's somewhere between probably, you know,  
24 in the last -- see, we've had over a hundred thousand  
25 enlisted post-9/11 who have gotten their citizenship. It

1 would be in the tens of thousands.  
2 Q. Okay. The next paragraph says, in the first  
3 sentence, "Many MAVNI recruits have been in the United  
4 States a very long time." I think that's, many MAVNI  
5 recruits have been in the United States for a very long  
6 time.  
7 When you say "a very long time" in this  
8 sentence, what do you mean by "a very long time"?  
9 A. More than a couple of weeks. More than five  
10 years, I would say. It's a range. A very long time by  
11 common sense standards. Year and years.  
12 Q. You're using it here then -- as I understand  
13 from what you're saying, you're using it here to mean --  
14 "a very long time" to mean more than five years?  
15 A. Well, okay. So here I'm talking about the  
16 DACAs, okay, at first and the DACAs --  
17 Q. I'm sorry. So the first sentence just says,  
18 "Many MAVNI recruits have been in the United States a very  
19 long time."  
20 Is that sentence limited to DACA recruits?  
21 A. No. It covers the whole range of MAVNIs.  
22 Q. Okay. So I want to understand, though, what you  
23 mean by "a very long time."  
24 Do you mean it to be that it's -- MAVNI recruits  
25 have been in the United States for more than five years?

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1 A. Well, it could be. That could be. It could	
2 be -- I think three years in some cases could be a very	
3 long time.	
4 Q. Why would it be three years for some people and	
5 five years for others?	
6 A. Because it's not -- I'm not pinning it down to a	
7 particular time frame. I'm just giving an estimate.	
8 Q. And what is the estimate? What is the numerical	
9 value for the estimate?	
10 A. I didn't put a numerical value on the estimate	
11 in my report.	
12 Q. As I'm understanding what you're saying now is	
13 that for some people five years could be a very long time	
14 and for other people three years could be a very long	
15 time. Am I understanding you correctly?	
16 A. Well, it depends on the purpose for what you	
17 mean "a very long time," but the MAVNIs --	
18 Q. How you use it in that sentence.	
19 A. I meant a very long time, that it would be five	
20 years or more. I think what I had in my head here was the	
21 original MAVNI program, when we designed it, we asked only	
22 for people that were in the U.S. for five years or more.	
23 That was part of the original proposal. And then DoD cut	
24 it down to two years. So to me, "a very long time" is	
25 like five years or more.	
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1 Q. Okay. That's helpful.	
2 You start the sentence by saying, "Many MAVNI	
3 recruits have been in the United States for a very long	
4 time." And we understand now "for a very long time" means	
5 more than five years.	
6 How many MAVNI recruits are you aware of that	
7 have been in the United States for more than five years	
8 before they enlisted in the military?	
9 A. Hundreds of them, if not thousands. There's	
10 more than 10,000 of them.	
11 Q. And all of those have been in -- all those were	
12 in the United States for more than five years before they	
13 enlisted?	
14 A. I didn't say all of them. I said out of the	
15 10,000, hundreds if not thousands of them had been in the	
16 United States for more than five years.	
17 Q. Is it more than 1,000, your estimate?	
18 A. Sure. Say more than 1,000.	
19 Q. Is it more than 2,000, in your estimate?	
20 A. I don't know. I'd have to go back and look at	
21 the data, but the Army had collected data on that.	
22 Q. What do you mean when you say -- I guess I'm	
23 trying to figure out what precisely you mean by "many	
24 MAVNI recruits" here.	
25 Do you mean more than 1,000 but less than 2,000?	

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1 A. I mean "many" as the common phrase is many --	
2 Q. But again, I think you can appreciate that --	
3 A. -- lots and lots of people.	
4 Q. -- it's a very ambiguous term that can have very	
5 different meanings to different people. So I'm trying to	
6 understand how you used it here specifically.	
7 A. I used it to mean lots and lots of MAVNI	
8 recruits.	
9 Q. And as I understand it, that means more than	
10 1,000.	
11 But does it mean more than 2,000?	
12 A. Well, I just used it in the generic sense of	
13 "many."	
14 Q. Actually, I'm sorry. I want to go back to my	
15 original question, which was, how many MAVNI recruits are	
16 you aware of, do you have firsthand knowledge of, who were	
17 in the United States for more than five years before they	
18 enlisted in the military?	
19 A. I would have to go back and look at the reports.	
20 Q. Can you provide an estimate for me?	
21 A. Not off the top of my head, no. I'd have to go	
22 back and look at the reports.	
23 Q. Do you think it would be more than 500?	
24 A. Like I said, I'd have to go back and look at the	
25 reports and figure that out. Nobody has asked me to pin	
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1 it down to my estimate of the exact number, and I'd have	
2 to go back and scrub the data.	
3 Q. So is it fair to say when you said, "Many MAVNI	
4 recruits have been in the United States for a very long	
5 time" in this sentence, you don't have a numerical number	
6 supporting the "many MAVNI recruits" language?	
7 A. I have a numerical number if I go scrub the	
8 data, but if you're asking -- you're trying to get me to	
9 give you a number, a specific number, and I can't do that	
10 right now because I have to go back and look at all the	
11 historical data that was collected on how many years	
12 people had been in the country before.	
13 Q. Did you scrub the data before you wrote this	
14 report?	
15 A. No.	
16 Q. So you didn't have a numerical value in mind	
17 when you wrote "many MAVNI recruits"?	
18 A. Not a specific number, no. I had the idea of	
19 "many" as it's commonly understood.	
20 Q. What is the common understanding of "many"?	
21 Getting a lot of semantics here, but I'm interested to	
22 know. What do you mean, when you say "commonly	
23 understood" meaning of "many," what is the commonly	
24 understood --	
25 A. Lots.	



<p style="text-align: right;">Page 198</p> <p>1 Q. So at the top of page 3, the last sentence in 2 that paragraph says, "Many MAVNI program recruits" -- 3 again, we see that language again -- "have extensive and 4 longstanding presence and ties to the United States." So 5 we already, I think, discussed a little bit about the 6 "many MAVNI program recruits" language. 7 Did you have a numerical value in mind when you 8 said "many MAVNI program recruits" here? 9 <b>A. Okay. Well, I'll help you out a little bit</b> 10 <b>here. Okay. So they recruited about 900 DACAs, and the</b> 11 <b>DACAs, by definition, had to have at least five years in</b> 12 <b>the United States before they were recruited, by virtue of</b> 13 <b>it being the DACA program. So it would be well over 1,000</b> 14 <b>MAVNI recruits that had longstanding ties, because the</b> 15 <b>DACAs were only 900 out of the 10,000 plus.</b> 16 Q. What do you mean by "extensive and longstanding 17 presence and ties"? 18 <b>A. I meant that they have gone to school here,</b> 19 <b>they've worked here, their family members live here. They</b> 20 <b>have been in our society for a very long time. They have</b> 21 <b>relatives and friends in the military. People who work at</b> 22 <b>the Pentagon have recruited them.</b> 23 In some cases, many -- one of the interesting 24 things about the early days of the MAVNI program was that 25 a lot of the recruits we were getting were recommended by</p>	<p style="text-align: right;">Page 200</p> <p>1 <b>A. Uh-huh.</b> 2 Q. How many MAVNI recruits would you say you have 3 such knowledge for about their extensive and longstanding 4 presence and ties to the United States? 5 <b>A. Hundreds of them.</b> 6 Q. Does that mean more than 500? 7 <b>A. Probably more than 500 MAVNIs that I've</b> 8 <b>interacted with, yes.</b> 9 Q. Is it more than 600? 10 <b>A. Probably.</b> 11 Q. Is it less than 1,000? 12 <b>A. I have probably interacted with thousands of</b> 13 <b>MAVNIs over the course of the program.</b> 14 Q. So I'm not actually asking about the number you 15 interacted with. I'm asking about the number of MAVNI 16 program recruits who you have firsthand knowledge of, of 17 their extensive and longstanding presence and ties to the 18 U.S. 19 <b>A. I think I should clarify here that I was the</b> 20 <b>original project officer for the program, so I pretty much</b> 21 <b>saw everybody's file the first year of the program. And</b> 22 <b>then the second year of the program I continued to have</b> 23 <b>firsthand knowledge. I would review files on a regular</b> 24 <b>basis, I would talk to people on a regular basis. So</b> 25 <b>hundreds.</b></p>
<p style="text-align: right;">Page 199</p> <p>1 <b>U.S. government officials who thought they would make good</b> 2 <b>recruits. So, for example, a colonel at the Pentagon</b> 3 <b>would send a MAVNI to a recruiter and say, this person has</b> 4 <b>ties to the United States.</b> 5 They also recruited a lot of people who worked 6 for the U.S. overseas. So people had worked in Iraq or 7 Afghanistan or Europe, Japan, Asia for the United States 8 and they would be recommended for the MAVNI program by 9 some official at the Pentagon, and their longstanding ties 10 weren't just inside the U.S. but they had, like, worked 11 for U.S. defense contractor overseas or worked for the 12 U.S. government overseas, or they had received a 13 scholarship to come to the United States through the U.S. 14 Department of State. 15 So it means -- "extensive and longstanding 16 presence and ties" means that they have family, friends, 17 social ties, connections, employment, that sort of thing. 18 Q. How do you specifically know that many MAVNI 19 recruits have extensive and longstanding presence and ties 20 to the United States? 21 <b>A. Because I know them and I've reviewed their</b> 22 <b>files and their records and interviewed them and talked to</b> 23 <b>them on the phone.</b> 24 Q. So you have firsthand knowledge from reviewing 25 their documents and from talking to them?</p>	<p style="text-align: right;">Page 201</p> <p>1 Q. So I'm going to move on to actually the footnote 2 at the bottom of the page. Footnote 2, which is footnoted 3 in the second paragraph. You say, the first sentence, 4 "Presumably the difficulty of doing a background 5 investigation on someone." 6 How are you evaluating the difficulty of doing a 7 background investigation on someone? 8 <b>A. Well, I would look at whether DoD has a file on</b> 9 <b>them, whether we have -- as a country we have access to</b> 10 <b>investigative databases on people who reside in that</b> 11 <b>country, whether we share databases. For example, we</b> 12 <b>share a lot of police information with the Canadians. So</b> 13 <b>it's relatively easier to do a background check on</b> 14 <b>somebody who has lived in Canada their whole life than it</b> 15 <b>is to do a background check on somebody who has lived in</b> 16 <b>China.</b> 17 Somebody in Europe, we may have Interpol 18 databases. If we have a State Department presence in a 19 country and the State Department has records on a persons, 20 it might be relatively easy to do a background check on 21 them. If they lived on a military base, we're going to 22 have a lot of records. If they were, for example, working 23 in Iraq or Afghanistan on a U.S. military base, we're 24 going to have a lot of records on them and a lot of 25 background-checking information already in our database.</p>

<p style="text-align: right;">Page 202</p> <p>1 So it's not -- it's not the case that every single country 2 is equally difficult. 3 Q. And you say "presumably" as the introductory 4 clause in this sentence. 5 What do you mean by "presumably" here? 6 <b>A. Common English term "presumably."</b> 7 Q. And what is that? What's your understanding of 8 the word "presumably"? 9 <b>A. It means that the difficulty of doing a 10 background investigation would depend on the country where 11 the person resided, as well as the circumstances of their 12 residence overseas. Not just the fact that they lived in 13 a foreign country.</b> 14 Q. When you say "presumably," are you making 15 assumptions in this sentence? 16 <b>A. That's based on my factual knowledge of what 17 sits in the U.S. government computer when somebody lives 18 on a base in Japan versus living on a base in -- I mean, 19 when I was in Japan, we had investigative reports on 20 everybody who lived on the base. So it's easy to get 21 those. You just order them up.</b> 22 Q. Just to be clear, as we go through your report, 23 these are the words that you chose to put down on the 24 page, and I'm trying to ask you these questions to help me 25 understand what you mean by these a little bit more. So I</p>	<p style="text-align: right;">Page 204</p> <p>1 and they flew back to China and the person has lived in 2 China their whole life, and we have no U.S. government 3 information on the individual until they apply for their 4 U.S. passport as an adult and fly back to the U.S. and 5 join the military. 6 <b>We're just not going to have any of that 7 information on the person in China, but we would have 8 information on somebody who grew up on a U.S. military 9 base in Japan.</b> 10 Q. So based on your testimony, my understanding is 11 you're not making any assumptions in the first sentence of 12 the footnote, despite your use of the word "presumably." 13 Is that fair to say? 14 <b>A. I don't understand what you're saying.</b> 15 Q. I'm asking whether you made any assumptions in 16 making the statement in the first sentence of this 17 footnote as indicated by the word "presumably." I 18 understand your testimony to be no, I didn't use any -- I 19 didn't make any assumptions -- 20 <b>A. That's not what I'm testifying to. I don't 21 understand your question.</b> 22 Q. Well, I've asked you before if you made any 23 assumptions in reaching the conclusions in this first 24 sentence of the footnote. 25 <b>A. Yeah. I made the assumption that DoD didn't</b></p>
<p style="text-align: right;">Page 203</p> <p>1 really want to focus on the language that you chose to use 2 here. 3 <b>A. So you don't know what the word "presumably" 4 means?</b> 5 Q. Actually, I don't know how you intended it to 6 be -- what you intended by using the word "presumably." 7 <b>A. I intended to introduce the sentence.</b> 8 Q. What does "presumably" mean in the context of 9 this sentence? 10 <b>A. It means that DoD didn't -- they basically are 11 claiming that it's difficult to do a background check on 12 anybody who lives in a foreign country. And it's not. It 13 depends on what country it is and where they live. Were 14 they sitting on a military base in Iraq or Afghanistan and 15 subject to the control of DoD the whole time, in which 16 case you are probably going to have a lot of information 17 on them.</b> 18 <b>If they were sitting in Japan, they were born on 19 a military base in Japan and they lived there for much of 20 their life because their parent was stationed overseas -- 21 maybe their parent was a civilian employee of the United 22 States military in Japan for a really long time -- we're 23 probably going to have less of a problem doing a 24 background check on that person than somebody who was born 25 in the U.S. as an infant to somebody on a tourist visit</b></p>	<p style="text-align: right;">Page 205</p> <p>1 <b>think about the fact that not everybody who is overseas is 2 somebody that we can't get a background check on. We can 3 get a background check on some people who are overseas. 4 It's just not the case that everybody overseas, you can't 5 get any background information on them. That's not the 6 case.</b> 7 Q. How do you know that? How do you know -- how do 8 you personally know whether a background investigation is 9 difficult? 10 <b>A. Because I've asked people for information on 11 people who have lived overseas, and I've gotten 12 information from them -- from people if the person like 13 worked for the U.S. government overseas. Or maybe they 14 went to a DoD school in Germany. I can get a lot of 15 information.</b> 16 Q. And how do you know that that's the information 17 that a person running a background investigation for 18 purposes of security clearance want to obtain? 19 <b>A. Because I've read the reports. That's what 20 they're trying to -- they want to know, where did you go 21 to school, do you have a criminal record, did you ever get 22 arrested for anything. That whole stack of reports I gave 23 you, they're trying to answer all those questions.</b> 24 Q. So is it fair to say that your understanding of 25 whether a background investigation is difficult is based</p>

<p>Page 206</p> <p>1 on the CI reports that you've read for the -- that you 2 provided me with today? 3 <b>A. No. It's also based on my reading of a lot of 4 single-scope background investigations as well. I mean, 5 you say "background investigation," you're not just 6 talking about CIs. Right? Presumably you're talking 7 about NACLC, NACs, SSBIs, Tier 3, Tier 5. You're talking 8 about the whole range of different background 9 investigations.</b> 10 <b>So it's data-driven and it depends on whether 11 you can check databases to check information that the 12 person is telling you about. And if you can check a 13 database because the information is out there, you can 14 verify the person was enrolled in a Department of Defense 15 school overseas. You know, it's not going to be so 16 difficult to do the background investigation on them.</b> 17 <b>Q. Is your assessment of whether it's difficult to 18 do a background investigation based on any personal 19 experience of actually conducting background 20 investigations?</b> 21 <b>A. Yes.</b> 22 <b>Q. Did you conduct those background investigations 23 as a military police officer?</b> 24 <b>A. Sometimes I did, yes.</b> 25 <b>Q. And have you ever -- I think we talked about</b></p>	<p>Page 208</p> <p>1 <b>MAVNI program is potentially a threat to the military, 2 regardless of their background, regardless of their 3 performance, regardless of how well they've been doing in 4 the military.</b> 5 <b>Q. What firsthand knowledge do you have that MAVNI 6 soldiers are uniquely suspicious within the military?</b> 7 <b>A. I don't have any firsthand knowledge that they 8 are. I don't think they're suspicious at all, uniquely 9 suspicious. I think there are equally problems with 10 native-born Americans in the military, with green card 11 holders coming into the military, Pacific Islanders coming 12 into the military. The MAVNIs don't have -- aren't 13 uniquely dangerous.</b> 14 <b>Q. What firsthand information do you have that 15 people think the MAVNIs are suspicious?</b> 16 <b>A. I read the Public Affairs things that have been 17 put out by officials at DoD, and the justification for the 18 Peter Levine memo was basically all these people are 19 suspicious. We failed in our background screening of all 20 them. We now have to go back and screen them all again. 21 And we have to prevent them from becoming officers, from 22 getting security clearances. I mean, that was a public 23 statement by DoD that they thought the entire program -- 24 everybody in the program was dangerous. 25 And then Stephanie Miller has been -- has</b></p>
<p>Page 207</p> <p>1 this before, but for purposes of this sentence, is your 2 assessment of the difficulty of doing a background 3 investigation based on your experience conducting 4 background investigations for purposes of a security 5 clearance determination? 6 <b>A. I was not an adjudicator for security clearance 7 investigations. As I mentioned before, I've been involved 8 in them when somebody comes to me to verify the 9 information about somebody or to collect a report on 10 somebody.</b> 11 <b>Q. So let's go back up to the main text in this 12 page. The last paragraph -- I think it's the fourth one 13 on the page -- says, "DoD's public treatment of 14 naturalized U.S. citizens who have entered the U.S. 15 military through the MAVNI program has created a black 16 cloud of suspicion over all MAVNIs."</b> 17 <b>What do you mean by "black cloud of suspicion"?</b> 18 <b>A. DoD tagged the entire group of MAVNIs with being 19 threats, national security threats, and used that as a 20 justification for doing all this extra background 21 screening and treating them badly during their first term 22 of enlistment, and refusing to let them have security 23 clearances even if they passed all the background 24 screening. Basically, DoD sent a message out publicly 25 that everybody who came into the military through the</b></p>	<p>Page 209</p> <p>1 <b>occasionally given press conferences and told selected 2 news media that this particular program represents a 3 threat. But I disagree with her. I don't think she's 4 correct in that assessment.</b> 5 <b>Q. The Public Affairs statements that you're 6 talking about, did those use the words "black cloud of 7 suspicion"?</b> 8 <b>A. No.</b> 9 <b>Q. Did the justification for the policies that you 10 referenced use the word "black cloud of suspicion"?</b> 11 <b>A. No.</b> 12 <b>Q. Has Stephanie Miller, to your knowledge, ever 13 used the phrase "black cloud of suspicion" to describe the 14 MAVNI soldiers?</b> 15 <b>A. No.</b> 16 <b>Q. Is that your own phrasing?</b> 17 <b>A. That's my terminology. Yep.</b> 18 <b>Q. And you chose that phrasing based on your 19 reading of the Public Affairs statements, DoD's stated 20 justifications for its policies, and statements Stephanie 21 Miller has made?</b> 22 <b>A. No. I've also talked to MAVNIs who have felt 23 that they were targeted. And I've had a lot of 24 conversations with MAVNIs who were very upset when the 25 policy came out. They were calling me. They were saying</b></p>

<p style="text-align: right;">Page 210</p> <p>1 things like, what did I do? I've always done my best and 2 now all of a sudden they think I'm dangerous. 3 I talked in particular to one doctor who was 4 lieutenant colonel in the Army and was thinking about 5 resigning because DoD had now tagged all the MAVNIs with 6 suspicion that they were all dangerous, and he felt he had 7 been trying really hard, working really hard. He loved 8 his military job. He'd been promoted to lieutenant 9 colonel. He's a doctor at Veterans Administration. 10 And he was very, very upset about this 11 announcement that all of a sudden nobody trusts you 12 anymore, and even though you passed all this background 13 screening, we don't think there's anything you can do to 14 make us happy, and we have to continuously monitor you for 15 the rest of your military career and throughout your 16 affiliation with the Department of Defense. 17 And it just made him very upset about the fact 18 that, for the rest of his life, he was going to be 19 considered less -- a second-class citizen because he had 20 come into the military through the MAVNI program. 21 Q. How many MAVNI soldiers have told you that they 22 feel suspicious because they're MAVNI soldiers? 23 A. Hundreds of them. 24 Q. How many MAVNI soldiers have told you that they 25 feel singled out as being suspicious because of the</p>	<p style="text-align: right;">Page 212</p> <p>1 A. No. 2 Q. Does the Levine memo or any of the supporting 3 documents for the Levine memo use the phrasing "deemed 4 inherently untrustworthy"? 5 A. No, but they, as a sum total of the intent of 6 the memo, were targeting this particular group of people 7 who came into the military through the MAVNI program. 8 They are suspicious, therefore, putting all these new 9 vetting requirements into effect. We're not doing this 10 for anybody else. We're only doing it for these people. 11 Naturalized citizens who come into the military 12 through other programs don't have to go through any of 13 this. People born in the United States or born in foreign 14 countries who have similar characteristics, like they 15 haven't lived in the United States very long, don't have 16 to go through any of this. It's only the MAVNIs. 17 Q. So is it fair to say the phrasing "deemed 18 inherently untrustworthy" is your own language that you 19 use based on your review of the Levine memo, Public 20 Affairs statements, public statements made by Stephanie 21 Miller, various e-mails, conversations you've had with 22 individual MAVNI soldiers and select -- or certain DoD 23 officials who -- or conversations you've had with certain 24 DoD officials? 25 A. That probably pretty much covers it. And other</p>
<p style="text-align: right;">Page 211</p> <p>1 policies challenged in this case? 2 A. I would say hundreds of them. 3 Q. That same paragraph says, "MAVNIs have been 4 singled out by DoD as inherently suspicious. No matter 5 how long they serve, they are, by explicit DoD policy, 6 deemed inherently untrustworthy because of their national 7 origin." 8 On what basis do you reach the conclusion that 9 MAVNIs have been, quote, "deemed inherently 10 untrustworthy"? 11 A. I read the Peter Levine memo. 12 Q. Anything else? 13 A. I read the subsequent memos and the Public 14 Affairs announcements coming out of the Department of 15 Defense and the Stephanie Miller interview. 16 Q. Anything else? 17 A. I've read various e-mails. I've had MAVNI 18 soldiers tell me that people have made comments to them. 19 Q. Anything else? 20 A. I've had DoD officials tell me that DoD Under 21 Secretary of Defense for Personnel and Readiness is 22 xenophobic and has targeted the MAVNIs. 23 Q. When you say "Public Affairs statements from 24 DoD," do they use the language "deemed inherently 25 untrustworthy"?</p>	<p style="text-align: right;">Page 213</p> <p>1 people from other agencies. 2 Q. On the next page -- I just have a couple more 3 questions and then I think we'd like to take a break. 4 The first paragraph of the top of the page, 5 which is a continuation of the previous paragraph, says, 6 the last sentence, "Naturalized U.S. citizens who enter 7 the military through the MAVNI program have expressed to 8 me that they are distressed and saddened by this DoD 9 policy." 10 Did they specifically -- did any MAVNI soldiers, 11 in conversations or communications with you, use the words 12 "distressed" or "saddened"? 13 A. They cried. So I discerned from the fact they 14 were crying that they were distressed, because I perceive 15 tears as a sign of distress and sadness. 16 Q. And is this based on -- then I assume this is 17 based -- is it fair to say that these are based on 18 in-person conversations you had with MAVNI soldiers in 19 which they conveyed these feelings to you? 20 A. Sometimes. Sometimes I was on Skype or Facetime 21 so I could see them crying. 22 Q. Are there any written communications with MAVNI 23 soldiers in which they've in some way conveyed what you 24 believe to be distress and sadness due to DoD policy? 25 A. Yes. On Facebook they've publicly expressed</p>



<p style="text-align: right;">Page 214</p> <p>1 <b>their distress and sadness.</b></p> <p>2 Q. How many MAVNI soldiers have communicated to</p> <p>3 you, in your understanding, that they are distressed and</p> <p>4 saddened by DoD policy?</p> <p>5 <b>A. I couldn't give you an exact numerical value. A</b></p> <p>6 <b>lot.</b></p> <p>7 Q. How many is a lot?</p> <p>8 <b>A. Many.</b></p> <p>9 Q. If you had to estimate, how many would it be?</p> <p>10 <b>A. I would have a hard time estimating it.</b></p> <p>11 Q. Why is that?</p> <p>12 <b>A. Because it's so frequent.</b></p> <p>13 Q. How many specific in-person conversations do you</p> <p>14 recall where MAVNI soldiers conveyed to you that they were</p> <p>15 distressed and saddened by DoD policies?</p> <p>16 <b>A. Specific that I recall. Many.</b></p> <p>17 Q. What's a specific number that you can recall of</p> <p>18 in-person conversations in which MAVNI soldiers expressed</p> <p>19 to you that they're distressed and saddened by DoD</p> <p>20 policies?</p> <p>21 <b>A. I don't know. I would have to think about it.</b></p> <p>22 Q. Would it be more than ten?</p> <p>23 <b>A. Yeah, more than ten for sure.</b></p> <p>24 Q. Would it be more than 50?</p> <p>25 <b>A. Could be, if I thought about it.</b></p>	<p style="text-align: right;">Page 216</p> <p>1 <b>and the Stephanie Miller pronouncements.</b></p> <p>2 Q. So the next paragraph starts with the sentence,</p> <p>3 "Ironically, U.S. citizens who entered the military</p> <p>4 through the MAVNI program are the 'most vetted' recruits</p> <p>5 who join the United States Armed Forces."</p> <p>6 What do you mean by "most vetted" in this</p> <p>7 sentence?</p> <p>8 <b>A. They are the recruits who have been through the</b></p> <p>9 <b>most background checking of any recruits who join the U.S.</b></p> <p>10 <b>Armed Forces.</b></p> <p>11 Q. Is that an official determination?</p> <p>12 <b>A. It's just facts. They have more background</b></p> <p>13 <b>checking done on them than any other recruits who join the</b></p> <p>14 <b>U.S. Armed Forces.</b></p> <p>15 Q. What do you mean by "background checking"?</p> <p>16 <b>A. Any official attempt to obtain information about</b></p> <p>17 <b>the person for the purposes of determining whether they're</b></p> <p>18 <b>any kind of threat to the United States, or security</b></p> <p>19 <b>threat or they have a criminal record or record of doing</b></p> <p>20 <b>anything bad.</b></p> <p>21 Q. What do you mean by "doing anything bad"?</p> <p>22 <b>A. It's broad. The State Department and Department</b></p> <p>23 <b>of Homeland Security ask extraordinarily broad questions</b></p> <p>24 <b>when people apply for a visa and check numerous government</b></p> <p>25 <b>databases before handing our visas overseas.</b></p>
<p style="text-align: right;">Page 215</p> <p>1 Q. These are in-person conversations with MAVNI</p> <p>2 soldiers in which --</p> <p>3 <b>A. Well, I have to sit there and think about where</b></p> <p>4 <b>was I, who did I talk to it, was it Skype, FaceTime, was</b></p> <p>5 <b>it at a meeting where a bunch of MAVNIs were there.</b></p> <p>6 Q. Is it more than 100?</p> <p>7 <b>A. Yeah, it's probably more than 100.</b></p> <p>8 Q. Is it more than 200?</p> <p>9 <b>A. You know, I don't want to speculate at this</b></p> <p>10 <b>point.</b></p> <p>11 Q. So in other words, you can't tell me -- the best</p> <p>12 you can say is it's a number between ten and 100 is the</p> <p>13 number of conversations you had --</p> <p>14 <b>A. No. It could be more than that. It's just that</b></p> <p>15 <b>I don't know which one of them -- you know, I can't recall</b></p> <p>16 <b>specifically how many people I've seen crying versus</b></p> <p>17 <b>making faces versus posting things on Facebook versus the</b></p> <p>18 <b>distress in their voice when they call on the phone and I</b></p> <p>19 <b>refer them to another lawyer to join a lawsuit, that sort</b></p> <p>20 <b>of thing. But it's a lot of people.</b></p> <p>21 The program took a gut punch from the Peter</p> <p>22 Levine memo in terms of the morale of people in the</p> <p>23 program. It dropped significantly. I'm sure when they</p> <p>24 come out with a new DoD study of the morale of the MAVNIs,</p> <p>25 they will see a significant drop after the Peter Levine</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. The vetting that you're referring to in the</p> <p>2 first sentence, when you say the MAVNI recruits are the</p> <p>3 most vetted recruits who join the Armed Forces, is the</p> <p>4 vetting that you're referring to there the same as the</p> <p>5 vetting that any soldier must go through in order to</p> <p>6 obtain the security clearance?</p> <p>7 <b>A. No. They go through more vetting.</b></p> <p>8 Q. They go through more vetting for?</p> <p>9 <b>A. Okay. Well, first of all, the MAVNI program,</b></p> <p>10 <b>when it started, was limited to legal immigrants who had</b></p> <p>11 <b>been in the United States for at least two years and only</b></p> <p>12 <b>people in specific categories. And all of the people in</b></p> <p>13 <b>those specific categories had been accorded that status in</b></p> <p>14 <b>that category by one or more agencies of the United States</b></p> <p>15 <b>government, whose job is to stop people who are going to</b></p> <p>16 <b>pose a security threat to the United States from entering</b></p> <p>17 <b>the United States or getting any immigration benefits.</b></p> <p>18 And so by virtue of the fact that these</p> <p>19 individuals had been accorded, for example, F-1 student</p> <p>20 status, we knew that that individual had gone through a</p> <p>21 significant amount of vetting with the Department of State</p> <p>22 as well as the Department of Homeland Security before they</p> <p>23 even sat foot in the United States, and they had been</p> <p>24 continuously monitored by the Department of Homeland</p> <p>25 Security for the two years prior to walking up to a</p>

<p style="text-align: right;">Page 218</p> <p>1 recruiting station. No other recruit had gone through 2 that, who approaches a recruiter. So that's what we were 3 talking about. 4 And then on top of that, they added additional 5 vetting before they would let them sign an enlistment 6 contract. They had to go through an additional vetting, 7 including Department of Homeland Security review of all 8 their immigration documents, which isn't something done on 9 any other recruits. So we would collect all the 10 immigration documents on each individual person that was 11 attempting to enlist in the Army through the MAVNI program 12 and we would send all those documents up to the Department 13 of Homeland Security and they would check all their 14 databases yet again and they would review all the 15 documents. And often we would have individual discussions 16 about the person. And they don't do that with any other 17 recruiter that walks in a recruiting station. It was only 18 done with the MAVNIs. 19 They also made the MAVNIs go through additional 20 screening. When we started the MAVNI program, we only 21 opened it in New York City, and the reason we did it in 22 New York City was because the commander of the recruiting 23 battalion in New York City was an MI officer, military 24 intelligence officer, and he had special expertise in 25 figuring out whether people are a security threat. And</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. Is there any sort of official determination of 2 that, that MAVNI recruits are the most vetted recruits who 3 join the Armed Forces? 4 A. As I recall, it was in a number of PowerPoint 5 slide presentations that were given at various points in 6 time about the program. And it was also the conclusion of 7 folks at ODNI at one point when I went over and 8 coordinated with them on the issue. 9 Q. SO it's fair to say that it was a shared opinion 10 among certain individuals at DoD and the Army? 11 A. It was a shared opinion, yeah. 12 Q. The last sentence in this paragraph says, "MAVNI 13 is a particularly difficult program to infiltrate because 14 the checking done on MAVNIs is more extensive than the 15 checking done on all other recruits." 16 What's the basis for your conclusion in this 17 sentence? 18 A. That's based on my experience with people 19 infiltrating the military who aren't MAVNIs. It's very 20 common. For example, there have been hundreds of people 21 who are born in foreign countries who have gotten into the 22 military as American citizens due to false birth 23 certificates or birth certificates that were issued based 24 on wrong information. And they could not get through the 25 MAVNI program because they wouldn't have -- they would</p>
<p style="text-align: right;">Page 219</p> <p>1 only the MAVNIs would be going through that kind of 2 screening before being allowed to sign an enlistment 3 contract. 4 And as I said, they'd also gone through -- I 5 mentioned the post-9/11 Department of State and Department 6 of Homeland Security security screening process. It's 7 extraordinarily rigorous. And that's referenced in the 8 Cato report that I gave you today. The quote is, "The 9 United States already practices 'extreme vetting.' While 10 people of all types -- foreign-born or U.S.-born -- will 11 always pose certain risks to the country, the country has 12 maxed out its capacity to improve immigration vetting. 13 Fortunately, vetting failures are very rare and pose a 14 small risk to the United States." 15 So what he's talking about there is the post- 16 9/11 security screening process, which is extremely 17 rigorous. No other recruits who come into the U.S. 18 recruiting station go through that kind of vetting. This 19 is all done before they even contact a recruiter. 20 Q. Has anyone else reached the conclusion that 21 MAVNI recruits are the most vetted recruits who join the 22 U.S. Armed Forces? 23 A. I know people in the Army thought so when we 24 started the program and people at DoD thought so when we 25 started the program.</p>	<p style="text-align: right;">Page 221</p> <p>1 have failed the initial screening by Department of 2 Homeland Security that was done on all the MAVNIs. 3 I can give you a specific example. But I've 4 talked to dozens and dozens of people who have come into 5 the military with a U.S. birth certificate, and so they 6 walked in a recruiting station with a U.S. birth 7 certificate, and they were allowed to enlist in the 8 military based on their U.S. birth certificate, and they 9 themselves believed that they were born in the United 10 States, but they weren't. They were born in a foreign 11 country. But the military allowed them in. 12 And it wasn't until years later, many times 13 after they had obtained a secret clearance or even a top 14 secret clearance, that somebody figured out, typically 15 when they were applying for an American passport, that 16 they were not born in the United States and they've been 17 in the United States their whole lives purporting to be 18 born in America. And they had gotten a secret or top 19 secret clearance and they managed to get in the military 20 with basically what was an improper birth certificate. 21 Q. So is it fair to say that your conclusion in 22 this sentence is based on anecdotal knowledge that you 23 acquired throughout your military service? 24 A. I don't know if it's anecdotal. It was a 25 problem that I had discussed repeatedly with Department of</p>

<p style="text-align: right;">Page 222</p> <p>1 <b>Homeland Security. And they confirmed to me that was the</b> 2 <b>case. The Navy told me at one point that they had, quote,</b> 3 <b>an entire submarine full of people like this that somehow</b> 4 <b>had gotten assigned to a submarine and they were trying to</b> 5 <b>figure out what to do with it, and we ended up</b> 6 <b>naturalizing them all. But everybody thought they were</b> 7 <b>all American citizens and it turned out that they weren't.</b> 8 Q. Are you aware of any studies that examine 9 whether the MAVNI program is a difficult program to 10 infiltrate? 11 <b>A. Studies? DoD does not seem to have any</b> 12 <b>comparative data, so I don't think anybody's done a study</b> 13 <b>on that. I mean, I could be wrong. Maybe they have some</b> 14 <b>study, but --</b> 15 Q. You're not aware of any studies done? 16 <b>A. Well, okay. Aware of any studies? I know</b> 17 <b>it's --</b> 18 Q. I'm sorry. Let me ask the question separately 19 because that -- 20 <b>A. I know you can infiltrate the military a lot of</b> 21 <b>different ways, okay, and I don't know that anybody has</b> 22 <b>done any particular study on it's easier to do it this way</b> 23 <b>or that way, but --</b> 24 Q. Your statement in this paragraph that MAVNI is a 25 particular difficult program to infiltrate --</p>	<p style="text-align: right;">Page 224</p> <p>1 Off record. 2 (Recess taken) 3 BY MR. SWINTON: 4 Q. We're returning from a short afternoon break. 5 Ms. Stock, did you discuss the deposition with 6 anybody during the break? 7 MR. O'DONNELL: Object and same instruction. 8 MR. SWINTON: Neil, I'm interested if you could 9 just state for the record. Is it your position that an 10 attorney can discuss the contents of a deposition with an 11 expert witness during any breaks? 12 MR. O'DONNELL: Yes. 13 MR. SWINTON: And again, I'd ask, do you have 14 any authority for that position that you're willing to 15 share with me? 16 MR. O'DONNELL: I think the one case I wrote 17 down that Joe Dugan cited holds that. 18 MR. SWINTON: Which case was that? 19 MR. O'DONNELL: The last one he cited. 20 MR. SWINTON: I think he cited to you at least 21 two cases and a treatise. Have you reviewed those legal 22 authorities? 23 MR. O'DONNELL: There seems to be disagreement 24 among the small number of cases that have addressed the 25 issue. Following my practice for the last 35 years, it's</p>
<p style="text-align: right;">Page 223</p> <p>1 <b>A. It is.</b> 2 Q. -- is that based on any studies? 3 <b>A. It's based on my study of seeing what people are</b> 4 <b>coming into the military who don't -- have used fake</b> 5 <b>documents and they've gotten in.</b> 6 Q. So the statement is based on -- as I understand 7 it, is it fair to say, that your statement in this 8 sentence is based on anecdotal evidence and information 9 you acquired throughout your military experience? 10 <b>A. I don't know if that's fully accurate, but you</b> 11 <b>can leave it at that.</b> 12 Q. Is there anything I left out that this 13 statement -- 14 <b>A. Well, I don't know that it's totally anecdotal,</b> 15 <b>but I think I acquired information when I was working as a</b> 16 <b>project officer that we concluded, based on the</b> 17 <b>characteristics of the MAVNIs, that it would be more</b> 18 <b>difficult for people to infiltrate the military through</b> 19 <b>the MAVNI program than through other programs.</b> 20 Q. Okay. 21 MR. SWINTON: Why don't we go ahead and take a 22 break now. 23 Before we go off the record, I'd again like to 24 state that the witness should not be discussing the 25 contents of the deposition at all with Mr. O'Donnell.</p>	<p style="text-align: right;">Page 225</p> <p>1 not a question I would be asking, and it's not a type of 2 examination I would permit from my witnesses. 3 BY MR. SWINTON: 4 Q. So Ms. Stock, let's continue looking at some 5 statements you made in your expert report. The pages 6 aren't numbered, but we're on the fourth page, and the 7 very last paragraph states, "As of the date of this 8 report, I have reviewed numerous MAVNI 9 'Counterintelligence' (CI) reports prepared by the DoD on 10 various MAVNI soldiers." 11 Have you provided me with a copy of all of 12 those -- or have you provided me the originals of all of 13 those reports today? 14 <b>A. All the ones that I reviewed in preparation for</b> 15 <b>this particular deposition, yes.</b> 16 Q. So I have in my possession currently all of the 17 CI reports which you considered in preparing the opinions 18 stated in this expert report? 19 <b>A. Correct.</b> 20 Q. So on the next page this paragraph continues 21 over. And you say, "These reports are not only replete 22 with factual errors, but they contain numerous illogical 23 adverse CI recommendations." So I'd just like to 24 understand this sentence a little bit more. 25 First, you say the reports are replete with</p>

<p style="text-align: right;">Page 226</p> <p>1 factual errors. What do you mean by "replete"?</p> <p>2 <b>A. Lots of them. There are a lot of fact errors in</b></p> <p>3 <b>the reports.</b></p> <p>4 Q. Is that looking at the reports collectively as a</p> <p>5 sum total or are you referring to there's a replete number</p> <p>6 of errors in one singular report?</p> <p>7 <b>A. Both.</b></p> <p>8 Q. Do all of the reports have multiple errors?</p> <p>9 <b>A. There might be one that only has one error.</b></p> <p>10 Q. How do you know that these are factual errors?</p> <p>11 <b>A. Because I'm familiar with the facts and I know</b></p> <p>12 <b>that, for example, if a person is a female, you say "she"</b></p> <p>13 <b>rather than "he," and I see that in reports. I see the</b></p> <p>14 <b>wrong name. So, for example, the person's name is one</b></p> <p>15 <b>thing and they're called by a different name in the</b></p> <p>16 <b>report. I see things like so and so owns a -- has a bank</b></p> <p>17 <b>account in the United States, but the place where the</b></p> <p>18 <b>person has a bank account is -- or outside the United</b></p> <p>19 <b>States. The report says the person has a bank account</b></p> <p>20 <b>outside the United States, but the person's bank account</b></p> <p>21 <b>is actually inside the United States.</b></p> <p>22 Q. In that hypothetical, how do you know where the</p> <p>23 person's bank account is located?</p> <p>24 <b>A. It says in the report. So there's contradictory</b></p> <p>25 <b>information in the report. On one page it says one thing</b></p>	<p style="text-align: right;">Page 228</p> <p>1 <b>security threat and that is causing them to be discharged</b></p> <p>2 <b>from the military. So the specific information in the</b></p> <p>3 <b>report, the information is not accurate, is being used to</b></p> <p>4 <b>take adverse personnel action against the person in order</b></p> <p>5 <b>to summarily discharge them from the military based on</b></p> <p>6 <b>faulty factual information.</b></p> <p>7 Q. What do you mean by "illogical"? How are the</p> <p>8 adverse CI recommendations illogical?</p> <p>9 <b>A. Well, I mean, I'd have to go into some detail,</b></p> <p>10 <b>but, for example, they're supposed to be evaluating</b></p> <p>11 <b>whether this person is some kind of threat. And they take</b></p> <p>12 <b>information that would indicate that the person is not a</b></p> <p>13 <b>threat and they illogically use that information to assume</b></p> <p>14 <b>that the person is a threat.</b></p> <p>15 Q. How do you know that these recommendations are</p> <p>16 illogical?</p> <p>17 <b>A. Because I read the facts, and the fact -- the</b></p> <p>18 <b>particular fact would indicate that the person is not a</b></p> <p>19 <b>security threat, but they infer that they are a security</b></p> <p>20 <b>threat, even though the fact would indicate that they're</b></p> <p>21 <b>not. So that is illogical. It's backwards.</b></p> <p>22 Q. Is it fair to say that your interpretation of</p> <p>23 the facts in the report lead you to conclude that these</p> <p>24 individuals are not security threats?</p> <p>25 <b>A. No. Sometimes it's right in the report. One</b></p>
<p style="text-align: right;">Page 227</p> <p>1 and then it says a completely different thing in another</p> <p>2 page. Another example, the person owns an apartment</p> <p>3 building it says in one page of the report, but in the</p> <p>4 other page of the report, they own an apartment, not a</p> <p>5 building.</p> <p>6 Q. Is it fair to say that some of the things you</p> <p>7 describe as factual errors are typos?</p> <p>8 <b>A. No. They appear to be used as a basis for</b></p> <p>9 <b>claiming that the person is a security threat. They don't</b></p> <p>10 <b>appear to be typos.</b></p> <p>11 Q. So you gave one example of using "he" when it</p> <p>12 should be "she" or kind of having the wrong gender for a</p> <p>13 pronoun.</p> <p>14 Do you consider that to be a factual error upon</p> <p>15 which there's an assessment that a person is a security</p> <p>16 threat?</p> <p>17 <b>A. I did in that case because it appeared they had</b></p> <p>18 <b>the person mixed up with somebody else. In some cases it</b></p> <p>19 <b>might be a typo, but in that particular case it looked</b></p> <p>20 <b>like they had confused different people.</b></p> <p>21 Q. You also state in this sentence that the reports</p> <p>22 "contain numerous illogical adverse CI recommendations."</p> <p>23 What do you mean by "adverse CI</p> <p>24 recommendations"?</p> <p>25 <b>A. Well, they are deeming the person to be a</b></p>	<p style="text-align: right;">Page 229</p> <p>1 <b>part of the report says the person is not a threat and the</b></p> <p>2 <b>other part says they are a major threat. So they just</b></p> <p>3 <b>completely contradict.</b></p> <p>4 Q. How many reports did you provide me with today?</p> <p>5 <b>A. More than 30.</b></p> <p>6 Q. What's the exact number?</p> <p>7 <b>A. I can grab them and start counting.</b></p> <p>8 Q. And that's okay. I can count them myself.</p> <p>9 But do you know off the top of your head the --</p> <p>10 <b>A. I don't know off the top of my head. I think</b></p> <p>11 <b>it's more than 30.</b></p> <p>12 Q. How did you obtain these CI reports?</p> <p>13 <b>A. People sent them to me.</b></p> <p>14 Q. Did individual MAVNI soldiers to whom the</p> <p>15 reports pertain send them to you?</p> <p>16 <b>A. They did.</b></p> <p>17 Q. Did the individual MAVNI soldiers to whom the</p> <p>18 reports pertain point out what they believe to be factual</p> <p>19 errors?</p> <p>20 <b>A. In some cases. In some cases I discerned it</b></p> <p>21 <b>myself.</b></p> <p>22 Q. Did the MAVNI soldiers to whom the reports</p> <p>23 pertain and who provided you with the reports point out</p> <p>24 what they believe to be illogical adverse CI</p> <p>25 recommendations?</p>



<p style="text-align: right;">Page 230</p> <p>1     <b>A. No. I discerned that myself.</b></p> <p>2         <b>I should clarify. Some of them were given to me</b></p> <p>3 <b>by journalists.</b></p> <p>4     Q. Why did individual MAVNI soldiers provide you</p> <p>5 with these reports?</p> <p>6     <b>A. They were upset about the reports because they</b></p> <p>7 <b>perceived them to be unfair and lacking and they were not</b></p> <p>8 <b>factually accurate. And in some cases they didn't</b></p> <p>9 <b>understand them and they were upset about being discharged</b></p> <p>10 <b>from the military without having any chance to contest the</b></p> <p>11 <b>wrong information in the reports.</b></p> <p>12     Q. Have you used these reports in cases brought on</p> <p>13 behalf of MAVNI soldiers in which you're an attorney of</p> <p>14 record?</p> <p>15     <b>A. Yes.</b></p> <p>16     Q. Have you shared these reports with other</p> <p>17 attorneys who are handling cases brought on behalf of</p> <p>18 MAVNI soldiers?</p> <p>19     <b>A. In some cases, yes.</b></p> <p>20     Q. Have you shared these reports with attorneys at</p> <p>21 Fried Frank?</p> <p>22     <b>A. In some cases, yes. I filed -- I gave them one</b></p> <p>23 <b>of the reports so they could file it in litigation. I</b></p> <p>24 <b>believe they did.</b></p> <p>25     Q. So yes, you have -- it's fair to say that you</p>	<p style="text-align: right;">Page 232</p> <p>1 than for purposes of -- actually, never mind.</p> <p>2         Later on in this paragraph you say, "It appears</p> <p>3 to me that the reports are often done by CI personnel who</p> <p>4 were inadequately trained and supervised."</p> <p>5         What leads you to believe that these CI</p> <p>6 personnel to whom you refer were inadequately trained and</p> <p>7 supervised?</p> <p>8     <b>A. Well, I've read the reports and they contain</b></p> <p>9 <b>numerous factual errors and logical errors and they --</b></p> <p>10 <b>it's obvious that some of the interviewers doing the</b></p> <p>11 <b>interviewing didn't understand things like immigration</b></p> <p>12 <b>law, people's immigration statuses. They didn't</b></p> <p>13 <b>understand that people from foreign countries will have</b></p> <p>14 <b>foreign parents. They were asking questions that didn't</b></p> <p>15 <b>make any sense if you're interviewing an immigrant. So it</b></p> <p>16 <b>appeared that they weren't trained.</b></p> <p>17         <b>And then I did do some Internet checking and I</b></p> <p>18 <b>looked at the website for the employees for the company</b></p> <p>19 <b>that's doing a lot of the background checks, and they were</b></p> <p>20 <b>complaining about the company that hired them, indicating</b></p> <p>21 <b>that they were not necessarily trained and supervised.</b></p> <p>22     Q. So one source of your opinion that these CI</p> <p>23 personnel were inadequately trained and supervised comes</p> <p>24 from complaints made by employees on a website about the</p> <p>25 company that runs the background investigations?</p>
<p style="text-align: right;">Page 231</p> <p>1 have provided --</p> <p>2     <b>A. I have. I think you were complaining about it</b></p> <p>3 <b>in a deposition. It was you or Colin, one of you. I read</b></p> <p>4 <b>the transcript. You used my name and were complaining</b></p> <p>5 <b>about the fact that I had given these reports to Fried</b></p> <p>6 <b>Frank.</b></p> <p>7     Q. Okay. I haven't taken any depositions in any</p> <p>8 MAVNI case --</p> <p>9     <b>A. No. It was a transcript of a court hearing.</b></p> <p>10     Q. Okay. Let me move on with some questions.</p> <p>11     <b>A. I'm sorry. I read a transcript of a court</b></p> <p>12 <b>hearing in which a Department of Justice attorney, whom I</b></p> <p>13 <b>believe to be either you or Colin Kisor, was complaining</b></p> <p>14 <b>about the fact that I shared this --</b></p> <p>15     Q. So let me get back to questions, Ms. Stock. I</p> <p>16 want to make sure we stay on track, because I know you're</p> <p>17 trying to get to a dental appointment after this</p> <p>18 deposition.</p> <p>19     <b>A. No, I don't have one today. I canceled it for</b></p> <p>20 <b>today. It's next Monday.</b></p> <p>21     Q. Okay. All right. I'll take my time then.</p> <p>22     <b>A. It's just my teeth hurt right now.</b></p> <p>23     Q. Sure. I don't want to keep you here any longer</p> <p>24 than necessary.</p> <p>25         Let me get back on my train of thought. Other</p>	<p style="text-align: right;">Page 233</p> <p>1     <b>A. Yeah.</b></p> <p>2     Q. And you said another reason why you are of the</p> <p>3 opinion that the CI personnel who write these CI reports</p> <p>4 were inadequately trained and supervised is because they</p> <p>5 didn't seem to know much about immigration law.</p> <p>6         If that is the case, how does that lead you to</p> <p>7 the conclusion that they're inadequately trained and</p> <p>8 supervised?</p> <p>9     <b>A. Well, because I would have expected the</b></p> <p>10 <b>Department of Defense, if it was conducting legitimate</b></p> <p>11 <b>background investigations on people, to want to get</b></p> <p>12 <b>correct information about whether the person was actually</b></p> <p>13 <b>a security threat, rather than just simply trying to</b></p> <p>14 <b>discharge a bunch of people and have some excuse for doing</b></p> <p>15 <b>so that wasn't going to see the light of day.</b></p> <p>16         <b>And it looked like they weren't legitimately</b></p> <p>17 <b>attempting to figure out whether people were a threat or</b></p> <p>18 <b>not. They were simply going through the motions of asking</b></p> <p>19 <b>a bunch of questions, and then somebody was reviewing the</b></p> <p>20 <b>report, and in some cases, almost randomly checking a box</b></p> <p>21 <b>and coming to a conclusion that somebody was a threat or</b></p> <p>22 <b>not a threat.</b></p> <p>23         <b>And nobody was overseeing it or there wasn't</b></p> <p>24 <b>anybody in a position to say, well, wait a minute, this</b></p> <p>25 <b>information is not correct. And they had no channel for</b></p>

<p style="text-align: right;">Page 234</p> <p>1 the individual to challenge the information or correct it 2 if it wasn't correct. And so under normal due process 3 standards, you know, normally if you're in the military 4 and you apply for a security clearance and some adverse 5 information comes up, they come to you and they say, you 6 have a due process right to address that. And that was 7 not happening with any of this at all. 8 That came up in the latest lawsuit that has been 9 filed, Calixto, the Calixto lawsuit. So there was no due 10 process being applied in any of these cases. And as a 11 result of that, the government collected a lot of 12 information that wasn't correct and they weren't giving 13 the individual a chance to explain it or mitigate it or 14 anything like that. So they got inadequate reports. 15 And that would be a failure of leadership, 16 because if you set up a program to screen people, you 17 know, you're trying to do background screening on people, 18 you want to make sure the information that you're getting 19 is accurate. 20 And they set up a program and they appeared to 21 be doing background checks on people, but in fact they 22 were not doing proper background checks. They were just 23 kind of going through the motions of doing them, 24 apparently. And they made a lot of mistakes. So that 25 tells me they're inadequately trained and supervised.</p>	<p style="text-align: right;">Page 236</p> <p>1 instructions were not accurate and they should fix the 2 instructions. 3 Q. Did you provide comment when you were -- prior 4 to your retirement from the Army? 5 A. No. It was post-retirement. They asked me to 6 review the instructions. 7 Q. What year was that? 8 A. It would have been 2016 -- no. 2017 sometime. 9 Q. On this same page in your expert report under 10 "Facts and Data," you say, in the second paragraph, "In 11 addition, I am relying on the DoD discovery in this case." 12 What discovery are you relying on? 13 A. I looked at the charts that showed the flow. 14 There were a bunch of charts that showed the flow of the 15 background checks. Then there was a document that showed 16 the CI instructions that were given to people, among other 17 things. 18 Q. What else did you -- are you relying on for your 19 expert report? 20 A. I reviewed deposition transcripts from people 21 who got deposed. 22 Q. I want to be clear. You say, "I'm relying on 23 the DoD discovery." I'm curious about what DoD discovery 24 specifically you're relying on for your expert report, not 25 what you've reviewed.</p>
<p style="text-align: right;">Page 235</p> <p>1 Q. Have you ever been involved in training CI 2 personnel who put together CI reports? 3 A. I have. 4 Q. Have you trained -- have you conducted training 5 for CI personnel who put together CI reports? 6 A. I have, although it wasn't for how to do the CI 7 report. It was training on immigration. I gave a seminar 8 on national security -- or NSA invited me to come and 9 teach their people about immigration law so they could 10 better do this kind of stuff, and members of the 902nd 11 were at that training. 12 Q. So it fair to say that you've never trained CI 13 personnel about how to fill out the report itself? 14 A. No, I have not done that. No. 15 Q. Have you ever supervised CI personnel who are 16 filling out CI reports? 17 A. No. I don't think anybody is apparently 18 supervising them, from what I can tell. 19 Q. But it's fair to say that you yourself have 20 never supervised -- 21 A. I have not. 22 Q. -- CI personnel who fill out the reports? 23 A. I have not. I have reviewed the instructions 24 that they're given, and I was asked to comment on them at 25 one point, and I commented on the fact that the</p>	<p style="text-align: right;">Page 237</p> <p>1 A. What do you believe to be the difference between 2 the word "rely" and the word "review"? 3 Q. Something that forms the basis for your opinion 4 for the expert report. And again, "relying" is your 5 language here in the report. So I'm interested in 6 understanding what you mean when you say "I am relying on 7 the DoD discovery." 8 My question is, what DoD discovery specifically 9 are you relying on in this report? 10 A. I just recited what I relied on. 11 Q. Okay. And then I think you started to say what 12 you had reviewed and I wanted to make sure that we stayed 13 focused on what you were relying on. 14 A. Can you tell me what you think is the difference 15 between the word "rely" and the word "review"? 16 Q. So first, I'm not the one whose deposition is 17 being taken. And again, I just want to use what your 18 words are saying here. I want to make sure I understand 19 them. 20 So you say, "I am relying on DoD discovery in 21 this case," and I was just interested in getting an 22 exhaustive list of what DoD discovery you're relying on 23 for purposes of forming the opinions that you make in this 24 expert report. 25 A. All of the relevant discovery that DoD provided</p>

<p style="text-align: right;">Page 238</p> <p>1 in this case.</p> <p>2 Q. Is that all of the discovery that DoD provided?</p> <p>3 A. I think I looked at pretty much everything at</p> <p>4 some point in time.</p> <p>5 Q. And you're relying on all of that to make your</p> <p>6 expert opinions in this case?</p> <p>7 A. I felt it was my duty as an expert to review all</p> <p>8 of the DoD discovery in the case, yes.</p> <p>9 Q. Also on this same page under "Exhibits," the</p> <p>10 last exhibit listed is "Cached University of North</p> <p>11 New Jersey Website," and I believe you brought a copy of</p> <p>12 that with you today. I'm just interested.</p> <p>13 Who cached the website?</p> <p>14 A. There's this thing called the Wayback Machine.</p> <p>15 Q. Okay. Did a person do something to cache it?</p> <p>16 A. Yeah. You go online and you go back in time and</p> <p>17 you check for what the website looked at a certain point</p> <p>18 in time.</p> <p>19 Q. Who did the checking? What person did the</p> <p>20 checking?</p> <p>21 A. I directed one of my assistants to do the</p> <p>22 checking.</p> <p>23 Q. So did you have someone -- is it fair to say</p> <p>24 that you had someone do the checking for the website for</p> <p>25 you?</p>	<p style="text-align: right;">Page 240</p> <p>1 Yeah, I had -- whoever is listed is the guy that</p> <p>2 did it. I had two people check it, basically. One guy</p> <p>3 worked at my office and then I had another guy check it.</p> <p>4 You're right. I said the wrong name.</p> <p>5 BY MR. SWINTON:</p> <p>6 Q. Why did you have that website cached?</p> <p>7 A. I don't have it cached. It's on the Internet.</p> <p>8 It's the Wayback Machine.</p> <p>9 Q. What do you mean when you say "the Wayback</p> <p>10 Machine"?</p> <p>11 A. You can go on the Internet and if you want to</p> <p>12 see what a website looked on a certain day in time, you</p> <p>13 can go back in time and get that website from on that day,</p> <p>14 see what it looked like.</p> <p>15 Q. So I'm using the word "cached" because you used</p> <p>16 the word "cache" when you listed it as an exhibit.</p> <p>17 A. Well, yeah. It's basically saved out there in</p> <p>18 the worldwide web. You can get full -- you can get a</p> <p>19 website that information has been taken down that today</p> <p>20 you wouldn't be able to find it, but you have to go back</p> <p>21 in time and --</p> <p>22 Q. Sure. So I think you understand what I mean</p> <p>23 when I say "cached" because I'm reciting your own language</p> <p>24 here.</p> <p>25 So I'm wondering, why did someone create a</p>
<p style="text-align: right;">Page 239</p> <p>1 A. Yeah. It was under my supervision and control.</p> <p>2 Q. Sure. Did you verify the accuracy of the</p> <p>3 caching yourself?</p> <p>4 A. I had a second person verify the accuracy of the</p> <p>5 caching.</p> <p>6 Q. Who was the second person?</p> <p>7 A. One of my clients.</p> <p>8 Q. What's the name of the client who verified the</p> <p>9 checking?</p> <p>10 A. I don't think I can say that. I think I'd have</p> <p>11 to claim attorney-client privilege. But he's a tech</p> <p>12 expert.</p> <p>13 MR. O'DONNELL: We listed him as an expert -- I</p> <p>14 mean, a witness.</p> <p>15 THE WITNESS: No, we didn't. I don't think so.</p> <p>16 MR. O'DONNELL: I did.</p> <p>17 THE WITNESS: Oh, you did. Okay. Then never</p> <p>18 mind. I can say. Sagar Dubey. He works for Accenture.</p> <p>19 I wanted to make sure we had two --</p> <p>20 MR. O'DONNELL: No. I've never talked to him.</p> <p>21 Who is your guy in Seattle?</p> <p>22 THE WITNESS: Okay. No. That's a different</p> <p>23 guy.</p> <p>24 MR. O'DONNELL: I listed the guy in Seattle.</p> <p>25 THE WITNESS: I'm getting mixed up. Okay.</p>	<p style="text-align: right;">Page 241</p> <p>1 cached version of that website?</p> <p>2 A. The tech companies do that routinely of</p> <p>3 everything.</p> <p>4 Q. Why did you have it done?</p> <p>5 A. I didn't have it done.</p> <p>6 Q. Why did you access a copy of that website?</p> <p>7 A. Because I wanted to see what the web pages</p> <p>8 looked like a long time ago.</p> <p>9 Q. Was it part of your expert work in this case?</p> <p>10 A. It was part of my expert work in this case, but</p> <p>11 also part of another case that I'm handling.</p> <p>12 Q. Why does it relate to your work in this case?</p> <p>13 A. Because one of the allegations in this case that</p> <p>14 Christopher Arendt and other people were making was that</p> <p>15 MAVNIs had attended universities that did not exist.</p> <p>16 Q. When did you have someone at your firm access</p> <p>17 the website?</p> <p>18 A. When I was preparing the expert report.</p> <p>19 Q. Was that in September 2018?</p> <p>20 A. Late September or early October.</p> <p>21 Q. Okay.</p> <p>22 A. I don't remember the exact date.</p> <p>23 (Exhibit B marked)</p> <p>24 Q. Ms. Stock, I'm handing you a document that's</p> <p>25 been marked as Exhibit B for this deposition. It has a</p>

<p style="text-align: right;">Page 242</p> <p>1 separate exhibit on it from prior depositions. This</p> <p>2 document is titled "The Military Accessions Vital to the</p> <p>3 National Interest (MAVNI) Program."</p> <p>4 Have you seen this document before?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. When did you see it?</p> <p>7 <b>A. I saw it when it was released as part of the DoD</b></p> <p>8 <b>discovery in the Tiwari litigation.</b></p> <p>9 Q. To the best of your knowledge, what was the</p> <p>10 primary objective of the RAND study?</p> <p>11 <b>A. As it says, the RAND Corporation was asked to</b></p> <p>12 <b>study the MAVNI program and "to provide information to the</b></p> <p>13 <b>Army on the performance and cost of U.S. Army MAVNI versus</b></p> <p>14 <b>non-MAVNI recruits, an estimate of the number of potential</b></p> <p>15 <b>MAVNI enlistees, and an assessment of the potential</b></p> <p>16 <b>security risks associated with the program."</b></p> <p>17 Q. Just so the record is clear, which page are you</p> <p>18 looking at when you read that information?</p> <p>19 <b>A. I think it's the preface. Page iii.</b></p> <p>20 Q. To your knowledge, did the RAND report take into</p> <p>21 account classified information in reaching its</p> <p>22 conclusions?</p> <p>23 <b>A. No. They specifically excluded any classified</b></p> <p>24 <b>information.</b></p> <p>25 Q. In your mind, does the lack of access to</p>	<p style="text-align: right;">Page 244</p> <p>1 <b>A. No.</b></p> <p>2 Q. So why is it your opinion that the lack of</p> <p>3 classified information doesn't affect the conclusions from</p> <p>4 the RAND report because if there was a sufficient threat</p> <p>5 to the -- from the MAVNI soldiers it would have been made</p> <p>6 public through an indictment or a conviction?</p> <p>7 <b>A. Well, you said two different things there. I</b></p> <p>8 <b>mean, lots of threats to the military have nothing to do</b></p> <p>9 <b>with the MAVNI program. They come from enemy forces, they</b></p> <p>10 <b>come from Chinese hackers overseas, they come from</b></p> <p>11 <b>Iranians overseas.</b></p> <p>12 Q. Is it your opinion that a threat to the MAVNI</p> <p>13 program would -- to be legitimate would always rise to the</p> <p>14 level of resulting in some sort of an indictment or other</p> <p>15 criminal proceeding?</p> <p>16 <b>A. A threat to the MAVNI program. The MAVNI</b></p> <p>17 <b>program is shut down.</b></p> <p>18 Q. Is it your opinion that a threat posed by the</p> <p>19 MAVNI program to the military -- actually, is it your</p> <p>20 opinion that any threats posed by MAVNI soldiers, to be</p> <p>21 legitimate, would always rise to the level of resulting in</p> <p>22 some sort of criminal proceeding?</p> <p>23 <b>A. Okay. I have to unpack that question, because</b></p> <p>24 <b>I'm not sure I understood it.</b></p> <p>25 Q. I'm trying to understand. You said that the</p>
<p style="text-align: right;">Page 243</p> <p>1 classified information by the RAND researchers diminish</p> <p>2 the value of the study --</p> <p>3 <b>A. No.</b></p> <p>4 <b>-- as a resource -- I'm sorry, let me finish the</b></p> <p>5 <b>question -- as a resource for assessing the security</b></p> <p>6 <b>threat posed by the MAVNI population?</b></p> <p>7 <b>A. It doesn't.</b></p> <p>8 Q. Why not?</p> <p>9 <b>A. Because the risks that DoD is concerned about,</b></p> <p>10 <b>if they exist, would become public. So, for example, if a</b></p> <p>11 <b>MAVNI had been prosecuted for terrorism or espionage, or</b></p> <p>12 <b>indicted or convicted or fined or anything for espionage,</b></p> <p>13 <b>it would be a public record, and RAND would have found</b></p> <p>14 <b>that information.</b></p> <p>15 <b>Also, if a MAVNI had behaved badly in such a way</b></p> <p>16 <b>as to pose a significant security threat to the United</b></p> <p>17 <b>States, the MAVNI -- if the MAVNI had been naturalized,</b></p> <p>18 <b>the MAVNI would have been denaturalized, and that's public</b></p> <p>19 <b>and there would have been a Department of Justice press</b></p> <p>20 <b>release about that.</b></p> <p>21 Q. Is it your opinion that security threats -- that</p> <p>22 security threats to the military -- let me start over.</p> <p>23 Is it your opinion that legitimate threats to</p> <p>24 the military should always rise to the level where they</p> <p>25 would warrant an indictment or a conviction?</p>	<p style="text-align: right;">Page 245</p> <p>1 lack of classified information doesn't affect the RAND</p> <p>2 report, because if it was serious enough, it would have</p> <p>3 resulted in an indictment or some sort of a criminal</p> <p>4 proceeding?</p> <p>5 <b>A. No. What I'm saying is -- okay. The DoD is</b></p> <p>6 <b>claiming that the whole entire, every single MAVNI is some</b></p> <p>7 <b>kind of potential security threat to the United States.</b></p> <p>8 <b>Okay. But there's no comparative data on that. They</b></p> <p>9 <b>don't -- DoD hasn't announced how many citizens who are</b></p> <p>10 <b>native-born pose a security threat, and they haven't</b></p> <p>11 <b>implemented measures, to counteract the dangers from</b></p> <p>12 <b>people like Nidal Malik Hasan, on whole classes of people</b></p> <p>13 <b>like they have done with the MAVNI program.</b></p> <p>14 <b>And DoD claims that somehow every single person</b></p> <p>15 <b>in the MAVNI program is some kind of national security</b></p> <p>16 <b>threat that requires DoD to impose this extraordinarily</b></p> <p>17 <b>high level of unconstitutional vetting on every single</b></p> <p>18 <b>person in the program. And based on the RAND report, it's</b></p> <p>19 <b>clear to me that that's not the case, because RAND was</b></p> <p>20 <b>asked to look at the security elements of program. They</b></p> <p>21 <b>looked at unclassified information, but in my opinion,</b></p> <p>22 <b>generally speaking, if there had been a MAVNI that had</b></p> <p>23 <b>done something bad, it would have ended up in the news.</b></p> <p>24 <b>That's what happens.</b></p> <p>25 <b>That's what happened with all the native-born</b></p>



<p style="text-align: right;">Page 246</p> <p>1 Americans who have been a threat. They've ended up in the 2 news. Somehow when there's a court-martial, it's in the 3 news. When there's an indictment, it's in the news. When 4 General Mike Flynn got busted for failure to register as a 5 foreign agent, it was in the news. 6 So what I'm trying to say is that, if there was 7 a very serious threat to the extent that DoD claims there 8 is, it would have been in the news. 9 Q. Is it possible for there to be a security threat 10 that doesn't end up in the news? 11 A. A threat, yeah. I mean, there's a threat to -- 12 you know, before the threat is carried out, things cannot 13 be in the news. 14 Q. Is it possible for there to be a security threat 15 posed by MAVNI soldiers that doesn't end up in the news? 16 A. Not by the whole entire group, no. 17 Q. Is it possible that individual MAVNI soldiers 18 pose security threats that information about those threats 19 would never end up in the news? 20 A. I think it would end up in the news eventually 21 if it was serious. 22 Q. Is it your opinion that only -- security threats 23 are only serious if they end up in the news? 24 A. No. You know, Chinese hackers hacked OPM and 25 that didn't end up in the news until after it happened,</p>	<p style="text-align: right;">Page 248</p> <p>1 was significant enough, you think it would have led to the 2 denaturalization proceeding of a MAVNI soldier? 3 A. Okay. It's not the security threat. Okay. I 4 mean, the threat exists out there in the world. 5 Q. I understand. Maybe could you -- what is your 6 basis for saying that information about a MAVNI soldier 7 that poses a security concern would result in a 8 denaturalization proceeding? 9 A. Okay. So if somebody is naturalized as a U.S. 10 citizen and it turns out that they were a spy or a 11 terrorist and they lied on their naturalization 12 application, then the Department of Homeland Security 13 would tell the Department of Justice, and the U.S. 14 Department of Justice would denaturalize that person for 15 lying on their citizenship application, and it would 16 probably be done in conjunction with a criminal proceeding 17 of some sort, and they would be denaturalized and that 18 would be public, and the criminal case would be public and 19 so would -- the denaturalization would be public, and they 20 would put out a press release like they always do on 21 denaturalizations. 22 Q. In your experience from your time with the Army, 23 was it common for security and intelligence information to 24 be shared in an unclassified format? 25 A. If it was unclassified, sure.</p>
<p style="text-align: right;">Page 247</p> <p>1 but that was a serious threat before it happened. It will 2 take a while for something to end up in the news. 3 Q. Is it your opinion that a threat posed by a 4 non-U.S. citizen who enlists in the military is only 5 serious if it results in a denaturalization proceeding? 6 A. I think you're making a lot of assumptions 7 there. 8 Q. So let me clarify. You said before that -- 9 when, again, we were talking about the lack of classified 10 information accessed by the RAND researchers, that you 11 said it didn't trouble you because, in addition to there 12 not being any news about MAVNI security programs, you said 13 it would have resulted in a denaturalization proceeding 14 for a MAVNI soldier. 15 So I'm trying to understand, what's the basis 16 for that opinion? 17 A. I don't think that I said that was my opinion. 18 Q. Can you correct me? Maybe could you tell me 19 again? How does your view about denaturalization 20 proceedings play into the question about classified 21 information and the absence of it from the RAND report? 22 A. Well, denaturalizations are public. They're not 23 classified. 24 Q. I understand that. 25 So you said before, that if the security threat</p>	<p style="text-align: right;">Page 249</p> <p>1 Q. If there was classified information -- if there 2 was classified security and intelligence information, 3 would there be -- in your experience, would there 4 typically be an unclassified version of that classified 5 reporting? 6 A. Often there would be, yeah. 7 (Exhibit C marked) 8 Q. Ms. Stock, I just handed you a document that's 9 been marked as Exhibit C. It states that it's a 10 declaration from Stephanie Miller that was filed in this 11 case and executed on May 31st, 2018. 12 Do you know a person named Stephanie Miller? 13 A. I don't know her personally. 14 Q. Do you know who she is? 15 A. Yes. She's -- at the time she wrote this, she 16 was the director, Accessions Policy Directorate, in the 17 Office of the Under Secretary of Defense for Personnel and 18 Readiness, P&amp;R. 19 Q. Did you ever interact with Stephanie Miller when 20 you were -- prior to your retirement? 21 A. I do not recall interacting with her. 22 Q. Have you ever interacted with her since the time 23 of your retirement? 24 A. Not that I can recall. 25 Q. I think you said earlier that you were -- you</p>

<p style="text-align: right;">Page 250</p> <p>1 mentioned public statements that she had made. 2 Are you familiar with statements she's made to 3 the press? 4 <b>A. I am familiar with those, yes.</b> 5 Q. Have you seen this declaration before? 6 <b>A. I have.</b> 7 Q. When did you first review this declaration? 8 <b>A. Let's see. When did I first review it? I don't</b> 9 <b>recall the exact date that I reviewed it, but I have seen</b> 10 <b>it before.</b> 11 Q. Did you review it as part of your expert work 12 for this case? 13 <b>A. Yes.</b> 14 Q. So Ms. Stock, I'm actually going to ask you to 15 read a paragraph. It's paragraph 4, which is on the 16 second page of the declaration. Go ahead and read that 17 out loud when you locate it. 18 <b>A. "However, it is important to note that the RAND</b> 19 <b>researchers who performed the analysis and wrote the</b> 20 <b>report only received access to unclassified information</b> 21 <b>and data, meaning that the report does not take into</b> 22 <b>consideration classified data about the program, including</b> 23 <b>a 2017 DoD Inspector General classified review and a 2017</b> 24 <b>Defense Intelligence Agency classified assessment. In</b> 25 <b>addition, although the RAND study and report analyzed</b></p>	<p style="text-align: right;">Page 252</p> <p>1 counterintelligence risks presented by the program if it 2 didn't have access to the classified information? 3 <b>A. It's possible for them to fully address it based</b> 4 <b>on unclassified, yes. And I think to understand this, you</b> 5 <b>have to understand that just because something is</b> 6 <b>classified doesn't mean it necessarily is reliable or that</b> 7 <b>it creates more risk to the program or anything like that.</b> 8 <b>I mean, it's not inherently the case that just because</b> 9 <b>something is classified it's more worthy of study than</b> 10 <b>things that aren't classified.</b> 11 <b>And RAND did a thorough job of meaningfully</b> 12 <b>addressing the security and counterintelligence risks</b> 13 <b>presented by the program within the parameters that they</b> 14 <b>were given, which is, you can't get classified</b> 15 <b>information.</b> 16 Q. I want to ask you to turn the page to 17 paragraph 6, and go ahead, if you don't mind, please read 18 aloud the first sentence of paragraph 6. 19 <b>A. Well, I have to contrast it, so maybe I should</b> 20 <b>read 5 and talk about 5. Because it says, "By contrast."</b> 21 <b>So I can't talk about the contrast unless I talk about 5.</b> 22 <b>So 5 says, "Given that" -- Stephanie Miller says, "Given</b> 23 <b>the deficiencies and limitations in the report, DoD</b> 24 <b>considers the conclusions drawn by the RAND report not to</b> 25 <b>be credible." That's the end of her quote. This is a</b></p>
<p style="text-align: right;">Page 251</p> <p>1 <b>unclassified information on counterterrorism risks</b> 2 <b>presented by soldiers who enlist via the MAVNI program, it</b> 3 <b>did not meaningfully address the security and</b> 4 <b>counterintelligence risk presented by the program."</b> 5 Q. Do you have any reason to doubt the information 6 that's been stated by Stephanie Miller in paragraph 4 of 7 her declaration? 8 <b>A. Yes.</b> 9 Q. Which parts? 10 <b>A. The part that it did not meaningful address the</b> 11 <b>security and counterintelligence risks. It did</b> 12 <b>meaningfully address them and they have a whole section in</b> 13 <b>their report that meaningfully addresses those risks.</b> 14 Q. Is there anything else in paragraph 4 of the 15 Miller declaration that you dispute? 16 <b>A. That's the main thing in that paragraph.</b> 17 Q. So the only thing you -- is it fair to say the 18 only thing you dispute in this paragraph is the last 19 clause that says, "It did not meaningful address security 20 and counterintelligence risks presented by the program"? 21 <b>A. Yeah. I mean, she's saying, in her opinion, it</b> 22 <b>didn't address it. But it did. I mean, you can just read</b> 23 <b>in black and white that RAND did in fact address that.</b> 24 Q. How could RAND have -- is it possible for RAND 25 to have fully addressed the security and</p>	<p style="text-align: right;">Page 253</p> <p>1 <b>startling statement because RAND is a recognized --</b> 2 Q. So Ms. Stock, actually, I want to make sure we 3 stay on track, because I know you're sensitive about time. 4 I'm really interested in one -- maybe I'll take over the 5 reading. 6 So paragraph 6, the first sentence says, "By 7 contrast, DoD's assessments about the MAVNI Pilot Program 8 and its decisions about what policies best meet the needs 9 and goals of the military are based on all available 10 classified and unclassified information and data about the 11 program." 12 So I'm interested -- do you see that sentence 13 there -- 14 <b>A. I do.</b> 15 Q. -- at the beginning of paragraph 6? Okay. 16 Do you have any reason to doubt Ms. Miller's 17 statement that DoD's assessments about the MAVNI Pilot 18 Program and its decisions about what policies best meet 19 the needs and goals of the military are based on all 20 available classified and unclassified information and data 21 about the program? 22 <b>A. Yeah, I do doubt that.</b> 23 Q. Why is that? 24 <b>A. Because it appears that they didn't consider --</b> 25 <b>DoD doesn't consider -- DoD is pretty one-sided in terms</b></p>

<p style="text-align: right;">Page 254</p> <p>1 of their decisions about the MAVNI program recently.</p> <p>2 Q. How do you know that -- what forms the basis of</p> <p>3 your opinion that DoD is one-sided about their MAVNI</p> <p>4 program recently?</p> <p>5 A. People in the Pentagon told me that there was a</p> <p>6 small group of people up at DoD P&amp;R who didn't like the</p> <p>7 MAVNI program and they were xenophobic and they were</p> <p>8 trying to come up with an excuse to get rid of the</p> <p>9 program, and one of the reasons they didn't publish the</p> <p>10 RAND report was because it favorably viewed the program.</p> <p>11 And they were attempting to quash the RAND report, didn't</p> <p>12 want it published because it said too many good things</p> <p>13 about the MAVNI program.</p> <p>14 And there was a dispute within the building</p> <p>15 about the security people and -- between the security</p> <p>16 people and the people that wanted these high-quality</p> <p>17 performing recruits in the military. And the way that DoD</p> <p>18 bureaucrats were winning the bureaucratic fight was to</p> <p>19 quash the RAND report and not let it get out.</p> <p>20 Q. Is there any other information that forms the</p> <p>21 basis of your opinion that DoD -- to dispute the statement</p> <p>22 made by Ms. Miller in paragraph 6?</p> <p>23 A. Yeah. Basically people said there was a</p> <p>24 political agenda at work here and that they offered the</p> <p>25 possibility of allowing RAND to have access to the</p>	<p style="text-align: right;">Page 256</p> <p>1 presents a significant risk from a counterintelligence and</p> <p>2 insider threat perspective?</p> <p>3 A. Because I talked to other people who had read</p> <p>4 the reports.</p> <p>5 Q. So your understanding of those reports is based</p> <p>6 on what other people have told you about them?</p> <p>7 A. They told me that there was no significant</p> <p>8 threat, but it was being overblown by a small number of</p> <p>9 people at the Department of Defense who had an interest</p> <p>10 in -- they didn't like foreigners serving in the military</p> <p>11 and they were trying to prevent foreigners from coming</p> <p>12 into the military.</p> <p>13 Q. Do you think you're in a position to opine on --</p> <p>14 actually, never mind. Let's move on.</p> <p>15 (Exhibit D marked)</p> <p>16 Q. So Ms. Stock, I just handed you a document</p> <p>17 marked as Exhibit D. Actually, we're going to set that</p> <p>18 aside. I'm sorry. I gave you the wrong one. We're going</p> <p>19 to come back to that one later.</p> <p>20 (Exhibit E marked)</p> <p>21 Q. So Ms. Stock, I just handed you an exhibit -- a</p> <p>22 document marked as Exhibit E. This states that it's the</p> <p>23 declaration of Roger Smith, which was filed in this case</p> <p>24 and executed on April 30th, 2018.</p> <p>25 Have you seen this declaration before?</p>
<p style="text-align: right;">Page 255</p> <p>1 classified information and DoD refused to allow that,</p> <p>2 claiming they didn't have the money to do that, and they</p> <p>3 just didn't want the report to come out.</p> <p>4 Basically, the bottom line was that the RAND</p> <p>5 report was too favorable to the MAVNI program and they</p> <p>6 didn't want a favorable report. They wanted one that was</p> <p>7 going to show that the MAVNI program was unfavorable, and</p> <p>8 since RAND hadn't done that, they weren't going to let the</p> <p>9 report be published.</p> <p>10 Q. And is it correct to say that these are things</p> <p>11 that current DoD officials told you?</p> <p>12 A. Current and past.</p> <p>13 Q. Going back to paragraph 4 in the Miller</p> <p>14 declaration, she references two documents here, a 2017</p> <p>15 Inspector General Classified Review and a 2017 Defense</p> <p>16 Intelligence Agency Classified Assessment.</p> <p>17 Have you reviewed the 2017 DoD Inspector General</p> <p>18 classified review?</p> <p>19 A. I have not.</p> <p>20 Q. Have you reviewed the 2017 Defense Intelligence</p> <p>21 Agency Classified Assessment?</p> <p>22 A. I have not.</p> <p>23 Q. If you haven't read certain recent reports about</p> <p>24 the security concerns with the MAVNI program, how are you</p> <p>25 in a position to opine on whether the MAVNI program</p>	<p style="text-align: right;">Page 257</p> <p>1 A. Yes.</p> <p>2 Q. When did you first see this document?</p> <p>3 A. I don't recall.</p> <p>4 Q. Would it have been around the time that it was</p> <p>5 filed in the case?</p> <p>6 A. It may have been. It may have been later.</p> <p>7 Q. Do you know a person named Roger Smith?</p> <p>8 A. I don't believe I know him personally, no. At</p> <p>9 least I can't recall whether I know him personally.</p> <p>10 Q. Do you recall having any interactions with</p> <p>11 Mr. Smith on any occasion?</p> <p>12 A. I don't have a specific recollection of having</p> <p>13 interactions with Mr. Smith, but it's a common name, so I</p> <p>14 may have had interactions with him.</p> <p>15 Q. So I'd like to turn to paragraph 26, which is on</p> <p>16 page 14. Paragraph 26 says, "More recent reviews</p> <p>17 conducted by representatives of DoD and the Department of</p> <p>18 Army in May 2016 confirm the inadequacy of standard</p> <p>19 vetting tools for the MAVNI program. For example, further</p> <p>20 examination of the MAVNI program from USD (P&amp;R) revealed</p> <p>21 that since 2013 more than 20 individuals who accessed via</p> <p>22 the MAVNI program have become the subjects of DoD and/or</p> <p>23 FBI counterintelligence and/or criminal investigations.</p> <p>24 As of September 2016, there were 16 open</p> <p>25 counterintelligence investigations involving individuals</p>

<p style="text-align: right;">Page 258</p> <p>1 from the MAVNI program. Notably, despite the fact that 2 soldiers who accessed via MAVNI occupy only approximately 3 .4 percent of the DoD national security positions 4 (11,000 MAVNI soldiers out of 2.7 million total), they 5 comprised approximately 15 percent of open DoD 6 counterintelligence investigations. Thus, soldiers who 7 accessed via the MAVNI program have a significantly higher 8 rate of reported counterintelligence and security concerns 9 than the overall DoD national security population." 10 Ms. Stock, have you reviewed yourself any 11 reviews of the MAVNI program that were conducted in May 12 2016? 13 <b>A. Okay. I don't understand what you're asking.</b> 14 Q. I'm asking whether you've reviewed any 15 reviews -- any DoD reviews of the MAVNI program that were 16 conducted in May 2016. 17 <b>A. Are you saying there was a DoD review of the</b> 18 <b>MAVNI program in May 2016?</b> 19 Q. So -- 20 <b>A. Because I don't remember that report in</b> 21 <b>discovery.</b> 22 Q. Well, in paragraph 26, it says, "More recent 23 reviews conducted by representatives of DoD and the 24 Department of Army in May 2016." 25 My question to you is, have you seen any reviews</p>	<p style="text-align: right;">Page 260</p> <p>1 of any other reviews that were conducted by DoD in the 2 Department of Army in May 2016? 3 <b>A. No. I'm aware of it because I've read his</b> 4 <b>affidavit where he says they were talking about it</b> 5 <b>somehow.</b> 6 Q. Is it fair to say that, outside of this 7 declaration, you're not aware of any reviews conducted by 8 DoD and the Department of Army of the MAVNI program in May 9 2016? 10 <b>A. I can't say that, because I did talk to people</b> 11 <b>right before -- or about the time the Peter Levine memo</b> 12 <b>was issued, and I was told by people at DoD that there was</b> 13 <b>a bureaucratic struggle going on between the security</b> 14 <b>people and the human resources people about the MAVNI</b> 15 <b>program and they were -- these discussions, I guess -- or</b> 16 <b>he calls them reviews -- culminated in the issuance of the</b> 17 <b>Peter Levine memo in September 2016.</b> 18 Q. If these reviews resulted in documentation, 19 reports of some sort, is it fair to say that you haven't 20 reviewed those documents that came from this -- you 21 haven't seen the documents that came from these reviews by 22 DoD and the Department of the Army? 23 <b>A. I haven't seen -- I haven't seen all of them,</b> 24 <b>but I've seen some of them, yeah.</b> 25 Q. And I'm specifically talking about the reviews</p>
<p style="text-align: right;">Page 259</p> <p>1 conducted by DoD of the MAVNI program in May 2016? 2 <b>A. I don't know what they mean by reviews, but a</b> 3 <b>review could be just somebody sitting in an office, you</b> 4 <b>know, talking to each other.</b> 5 Q. Are you aware of any reviews conducted by DoD of 6 the MAVNI program in May 2016, other than what it says in 7 paragraph 26? 8 <b>A. Reviews. Well, I mean, there have been various</b> 9 <b>affidavits people filed saying they were talking about the</b> 10 <b>MAVNI program. Have I -- I wasn't present at those</b> 11 <b>reviews, so I don't know what they did.</b> 12 Q. It also says that there are reviews conducted by 13 the Department of Army. 14 Are you aware of any reviews conducted by the 15 Department of Army in May 2016? 16 <b>A. Well, it depends what you mean by reviews. Are</b> 17 <b>you talking about like two guys sitting in an office</b> 18 <b>talking about the program? Are you talking about like a</b> 19 <b>PowerPoint presentation? Are you talking about a fact</b> 20 <b>sheet? It's extraordinarily vague and it's impossible for</b> 21 <b>me to tell what exactly they're talking about. They</b> 22 <b>previously reference specific reports, and they don't</b> 23 <b>reference a specific report here. So it could just be two</b> 24 <b>guys talking in an office.</b> 25 Q. Is it fair to say, then, that you aren't aware</p>	<p style="text-align: right;">Page 261</p> <p>1 referenced here in May 2016. 2 If there were any documents generated, is it 3 fair to say that you haven't seen those documents? 4 <b>A. It's not fair to say that, because I might have</b> 5 <b>seen them.</b> 6 Q. But you're not aware of having seen any 7 documents that refer to reviews of the MAVNI program by 8 DoD and the Department of Army in May 2016? 9 <b>A. Well, I'm aware of seeing documents that</b> 10 <b>apparently were discussed in the reviews that he's talking</b> 11 <b>about here.</b> 12 Q. But if there were reports generated -- if there 13 were documents generated by the reviews themselves, the 14 reviews that took place in May 2016, have you seen those 15 documents? 16 <b>A. I could very well have seen them, yeah.</b> 17 Q. But you don't know for certain if you have? 18 <b>A. Well, I know I've seen documents that likely</b> 19 <b>were considered in these reviews.</b> 20 Q. Okay. 21 <b>A. I mean, based on what everybody is saying in all</b> 22 <b>their affidavits, I'm pretty sure I know what they're</b> 23 <b>talking about. I mean, it's in the prior paragraph.</b> 24 Q. Okay. Well, if you -- 25 <b>A. I'll give you an example --</b></p>



<p style="text-align: right;">Page 262</p> <p>1 Q. Actually, so I don't want to get us off track,</p> <p>2 Ms. Stock. I want to make sure I respect your time --</p> <p>3 <b>A. I'm trying to answer your question. Okay. So</b></p> <p>4 <b>have --</b></p> <p>5 Q. I think you are. My question was about whether</p> <p>6 you'd seen the documents. So let me move on and ask a</p> <p>7 different question.</p> <p>8 <b>A. Well, I have seen the documents relating to item</b></p> <p>9 <b>number 1 in paragraph 25.</b></p> <p>10 Q. I actually wasn't asking about paragraph 25. I</p> <p>11 appreciate your willingness to be helpful.</p> <p>12 <b>A. That's what they're talking about. They're</b></p> <p>13 <b>leading into that.</b></p> <p>14 Q. Okay. I want to move on to different questions.</p> <p>15 Do you have any reason to doubt the sworn</p> <p>16 statements of Mr. Smith in paragraph 26?</p> <p>17 <b>A. The factual statements, no. The conclusions,</b></p> <p>18 <b>yes.</b></p> <p>19 Q. Which conclusions do you doubt in paragraph 26?</p> <p>20 <b>A. Okay. So these are MAVNIs. They're not</b></p> <p>21 <b>native-born citizens. And it was my experience as a</b></p> <p>22 <b>military police officer that if somebody is, quote, a</b></p> <p>23 <b>foreigner in the military and they do something bad, it</b></p> <p>24 <b>gets referred to the counterintelligence people. And if</b></p> <p>25 <b>it's a native-born person and they do something bad, they</b></p>	<p style="text-align: right;">Page 264</p> <p>1 <b>officers are much more dangerous than MAVNIs.</b></p> <p>2 Q. Any other reasons that you doubt the statements</p> <p>3 in paragraph 26?</p> <p>4 <b>A. I don't doubt the factual statements, but I</b></p> <p>5 <b>doubt the conclusion that this means the MAVNI program</b></p> <p>6 <b>itself is particularly dangerous compared to other</b></p> <p>7 <b>recruiting programs. I don't think it is. I think it's</b></p> <p>8 <b>definitely a possibility that people are going to try to</b></p> <p>9 <b>sneak into the Army through the MAVNI program.</b></p> <p>10 <b>It was something that I was concerned about when</b></p> <p>11 <b>I was the project officer for the MAVNI program initially.</b></p> <p>12 <b>But we set up procedures in place to try to prevent that</b></p> <p>13 <b>as much as possible, and I don't think it's the case that</b></p> <p>14 <b>this is the only dangerous avenue that people can come</b></p> <p>15 <b>into the military through. The bad guys are trying to</b></p> <p>16 <b>enter the military through every single kind of recruiting</b></p> <p>17 <b>program. I mean, it's just a fact. And if you focus only</b></p> <p>18 <b>on the MAVNI program, you're going to miss all the other</b></p> <p>19 <b>people trying to come in.</b></p> <p>20 <b>And you're also overly inclusive,</b></p> <p>21 <b>underinclusive. In terms of this mass tagging of the</b></p> <p>22 <b>entire population of MAVNIs as being dangerous, it's</b></p> <p>23 <b>extraordinarily bad for security to do that. It's also</b></p> <p>24 <b>illegal and unconstitutional.</b></p> <p>25 <b>But getting back to this, just because they're</b></p>
<p style="text-align: right;">Page 263</p> <p>1 don't refer it to the counterintelligence people. They</p> <p>2 refer it to the military police or CID.</p> <p>3 So, for example, when I read this, I said, okay,</p> <p>4 but he's not explaining that out of 500 cases of</p> <p>5 misconduct among general officers in the Army during the</p> <p>6 same time period, much higher rate. It's natural that if</p> <p>7 you're a foreigner, people are going to -- if you do</p> <p>8 something that somebody thinks is suspicious, you're going</p> <p>9 to become the subject of a counterintelligence</p> <p>10 investigation because you're a foreigner. You're not</p> <p>11 going to become the subject of a standard military police</p> <p>12 investigation. I mean, that happens. It's a bias in the</p> <p>13 system.</p> <p>14 And then he's saying there the subjects -- you</p> <p>15 know, it says "accessed" and I don't know if he means</p> <p>16 actually got into the program. But then he says subjects</p> <p>17 of and/or criminal investigations, but then he goes down</p> <p>18 below and he seems to only be talking about</p> <p>19 counterintelligence. So he's trying to bias the</p> <p>20 statistics to make it sound like the people are really</p> <p>21 dangerous when we have security threats throughout the</p> <p>22 force. And USA Today had a big headline the same time</p> <p>23 period about 500 general officers being under</p> <p>24 investigation. Out of a population of how many general</p> <p>25 officers, the percentage is much higher, that general</p>	<p style="text-align: right;">Page 265</p> <p>1 the subjects of an investigation doesn't mean -- you know,</p> <p>2 and just because it's open doesn't mean anybody actually</p> <p>3 did anything bad. People are often found to be not guilty</p> <p>4 or it was a mistake or somebody overheard something. So</p> <p>5 it doesn't mean necessarily that there's any particular</p> <p>6 threat from this program as compared to other programs.</p> <p>7 Also, I'm well aware that there's some foreign</p> <p>8 governments that don't like the program and they were</p> <p>9 trying to shut the program down. So who knows where this</p> <p>10 information is coming from. Maybe the Russians fed it to</p> <p>11 the DoD in order to shut down the program. Who knows. Or</p> <p>12 the Chinese.</p> <p>13 Q. Do you have a reason to believe that the</p> <p>14 Department of Defense is -- do you have reason to believe</p> <p>15 that DoD or the Army is making policy based on fake</p> <p>16 information provided by foreign nations?</p> <p>17 <b>A. Well, they've done -- the foreign nations have</b></p> <p>18 <b>done that in other realms, so it wouldn't surprise me if</b></p> <p>19 <b>that were happening.</b></p> <p>20 Q. Do you have concrete information that says -- do</p> <p>21 you have -- do you know whether any information upon which</p> <p>22 DoD or the Army has made policies for the MAVNI program is</p> <p>23 based on fake information provided by foreign nations?</p> <p>24 <b>A. I don't know that.</b></p> <p>25 Q. So to your knowledge, neither DoD nor the Army</p>

<p style="text-align: right;">Page 266</p> <p>1 has made policies about the MAVNI program based on fake 2 information from foreign nations? 3 <b>A. I don't know that either.</b> 4 Q. I said "to your knowledge." 5 To your knowledge, neither DoD -- you're not 6 aware of any fake information provided by foreign nations 7 that DoD or the Army has used to make policy decisions for 8 the MAVNI program? 9 <b>A. Not for the MAVNI program. I know they have 10 relied on false information in the past to make decisions.</b> 11 Q. Okay. I just wanted to make sure that I 12 understand your -- 13 <b>A. I mean, they often get false information from 14 foreign countries that are trying to influence U.S. 15 policy --</b> 16 Q. You mentioned at the beginning of your answer 17 before -- you said that you are aware of security threats 18 when you were working on the MAVNI program before you 19 retired; is that correct? 20 <b>A. Uh-huh.</b> 21 Q. And you said that you had put procedures in 22 place to address those security threats; is that correct? 23 <b>A. Right.</b> 24 Q. What were the security threats that you are 25 aware of and what were the procedures that you set up to</p>	<p style="text-align: right;">Page 268</p> <p>1 Q. Sorry. Again, I want to make sure we stay on 2 track, Ms. Stock. 3 <b>A. Right. So --</b> 4 Q. You tend to veer. 5 <b>A. -- anyway, we also had people that were trained 6 to screen people coming in. So, for example, if somebody 7 that people thought was potentially a security threat 8 talked to a recruiter, the recruiter was trained to report 9 that, and I was responsible for training the recruiters to 10 try to flag security-threat people. And so I personally 11 went to New York City to train the New York City 12 recruiting battalion together with Paul Cook, who was an 13 MI officer. And he was in charge of the recruiting 14 battalion, and we talked openly with the recruiters about 15 the fact that this is a new recruiting program. We're 16 going to have bad guys trying to sneak into the military 17 through the program. You guys are the front line of 18 defense against bad guys trying to sneak into the 19 military. Nobody has a right to join the United States 20 military. If you feel uncomfortable with somebody, just 21 tell them no. Tell them to go away. And you won't let 22 them in the military.</b> 23 <b>We also had procedures for reviewing individuals 24 that if recruiters felt nervous. But that all kind of 25 went away when they decided to go nationwide with the</b></p>
<p style="text-align: right;">Page 267</p> <p>1 address those threats? 2 <b>A. Well, we were worried, just as with any 3 recruiting program, that people with ill intent might try 4 to get into the program. You know, that's any time you 5 set up a recruiting program from the United States 6 military or for any security agency. There are people 7 that are going to try to come in that are not appropriate. 8 The big one that we were worried about was the 9 unauthorized, undocumented immigrants would try to get 10 into the military through the program. And we expected 11 that to happen, and in fact, we had people showing up at 12 recruiting stations with fake documents thinking that they 13 could get into the military through the MAVNI program. 14 And that's why we set up a procedure for DHS to check 15 everybody's documents. And we did routinely turn people 16 away who showed up at recruiting stations with fake 17 documents.</b> 18 <b>But we had procedures in place to catch it.</b> 19 <b>That's why it didn't happen. Nobody came in with a fake 20 visa. Contrary to what Chris Arendt said, there was never 21 anybody who came into the MAVNI program with a fake visa.</b> 22 <b>And that was a patently false statement that was made in 23 one or more affidavits. The visas were all issued by the 24 U.S. Department of State. Not a single one of them was 25 fake. Chris got confused. He doesn't understand --</b></p>	<p style="text-align: right;">Page 269</p> <p>1 <b>program, which is something I had argued that they 2 shouldn't do. I thought they should keep it local and 3 specialized where they had adequate means to interview the 4 recruits properly and so forth.</b> 5 <b>And of course, we knew from open source 6 information that foreign governments were interested in 7 the MAVNI program. The Russians copied us. They created 8 their own MAVNI program shortly after we did. And it was 9 obvious that they were watching our program because they 10 created their own program.</b> 11 Q. Let's move on to paragraph 27 of the Smith 12 declaration. Just go ahead and read that to yourself for 13 a second and let me know when you're done. 14 <b>A. Okay. I finished reading it.</b> 15 Q. So this paragraph talks about gaps and missing 16 information from MAVNI soldiers during background 17 investigations, and those gaps, according to the 18 declaration, pertain to the subject's residency, 19 employment, and character references due to the short 20 period of time that most MAVNI soldiers have resided in 21 the United States. 22 <b>So based on your experience and knowledge, what 23 tools, if any, would more precisely or effectively fill 24 those investigative gaps than the tools that are currently 25 in place?</b></p>

<p style="text-align: right;">Page 270</p> <p>1 A. First of all, this statement is not correct.</p> <p>2 He's saying, "This review showed that the completed</p> <p>3 investigations for MAVNI soldiers were, in most cases,</p> <p>4 significantly lacking information about the subject's</p> <p>5 residency, employment, and character references." They</p> <p>6 weren't significantly lacking, but the gaps were often</p> <p>7 attributed not to the short period of time they were in</p> <p>8 the U.S. It was attributed to the fact that the way the</p> <p>9 Army had the SF 86 completed was that they had the</p> <p>10 recruiters submitting the SF 86s.</p> <p>11 So the recruiter would sit down with the recruit</p> <p>12 and would say, you have to fill out this huge form, SF 86.</p> <p>13 It's the one that Jared Kushner had trouble filling out.</p> <p>14 I think he tried to fill it out three times and kept</p> <p>15 putting in wrong information and making mistakes,</p> <p>16 according to news articles. So it's a very lengthy,</p> <p>17 difficult form and the recruiters were told they couldn't</p> <p>18 enlist somebody until they filled out this form.</p> <p>19 So the recruiters were often filling out the</p> <p>20 form and submitting it. And there were gaps and missing</p> <p>21 information that were often attributable not to the short</p> <p>22 period of time they were in the U.S., but the recruiter</p> <p>23 not putting information on the form, being rushed, being</p> <p>24 in a hurry, copying information over from one person's</p> <p>25 form to another so that the information was incorrect.</p>	<p style="text-align: right;">Page 272</p> <p>1 Well, the general population, if you did this, you would</p> <p>2 get huge numbers of people with criminal activity because</p> <p>3 you're allowed to get a waiver of some of that to get in</p> <p>4 the military. So we have a lot people coming in who are</p> <p>5 native born who have criminal activity in their past, but</p> <p>6 they're not being told the fill out an SSBI.</p> <p>7 Q. Let me ask my question a little bit more</p> <p>8 specifically and without reference to the Smith</p> <p>9 declaration.</p> <p>10 So assuming that DoD has security concerns about</p> <p>11 individuals who enlist in the MAVNI program, are you aware</p> <p>12 of any tools that would be more narrowly tailored than the</p> <p>13 screening tools that are being challenged in this case?</p> <p>14 A. Sure.</p> <p>15 Q. What are those?</p> <p>16 A. First of all, you give everybody a</p> <p>17 counterintelligence screening and you say, I want to know</p> <p>18 if you've had any of the following things happen, if</p> <p>19 you've ever been contacted by a foreign government that</p> <p>20 asks you to download Intelius reports and give them to us.</p> <p>21 I want you to report that to me. I want you to tell me</p> <p>22 about that. Where you're coming into the military, you're</p> <p>23 a foreigner coming into the military, we're concerned that</p> <p>24 foreign governments might try to exploit you.</p> <p>25 You know, you read them the riot act about the</p>
<p style="text-align: right;">Page 271</p> <p>1 So it didn't have anything to do with DoD's</p> <p>2 inability to conduct investigations in foreign countries.</p> <p>3 It had to do with -- the gaps and missing information had</p> <p>4 to do with a real global problem we had with these SF 86</p> <p>5 forms having wrong information. And it was</p> <p>6 extraordinarily common when they did the SSBI for the</p> <p>7 SSBI investigator to sit down with the MAVNI and go</p> <p>8 through the SF 86 and find all kinds of errors.</p> <p>9 So if you see the SSBI's, you see discrepant,</p> <p>10 discrepant, discrepant because they were constantly</p> <p>11 correcting errors. And one of the common ones, the</p> <p>12 character references, a lot of times they would copy over</p> <p>13 the same people's names from one form to the other because</p> <p>14 the recruiter was in a really big hurry.</p> <p>15 And then you talk about the comparison, the less</p> <p>16 than one percent, I mean, the majority of people coming</p> <p>17 into the military don't do an SSBI. So they simply don't</p> <p>18 check anything to this level. It's like screening people</p> <p>19 for breast cancer. If you don't screen anybody, you don't</p> <p>20 get any reports of breast cancer. But they were screening</p> <p>21 the MAVNIs using these tools and so they were getting this</p> <p>22 13 percent figure. If they had done the rest of the</p> <p>23 force, it would have been a lot higher because they would</p> <p>24 have a lot of gaps and wrong information.</p> <p>25 And then they talk about criminal activity.</p>	<p style="text-align: right;">Page 273</p> <p>1 naturalization process, how they can lose their</p> <p>2 naturalization if they are found out to have lied about</p> <p>3 anything. And that's basically what we did early on in</p> <p>4 the program. And then you warn them that they may be</p> <p>5 targeted by foreign governments, foreign intelligence</p> <p>6 services. And you ask them to report it.</p> <p>7 The traditional tools that we've used in the</p> <p>8 past are pretty adequate for that purpose. You do the</p> <p>9 normal screening that you do on any recruit, which pops up</p> <p>10 a lot of the stuff. You do the DHS checks, which DHS</p> <p>11 doesn't give people an F-1 visa without checking criminal</p> <p>12 databases. So if somebody is in valid F-1 status, we're</p> <p>13 going to catch them for anything they did prior to that</p> <p>14 date. Later on, if they do something afterwards, we're</p> <p>15 going to have to do some follow-up.</p> <p>16 But you don't have to subject 10,000 people to</p> <p>17 continuous monitoring and post-naturalization extreme</p> <p>18 vetting. I mean, that's just not necessary. It's</p> <p>19 overinclusive. It's underinclusive. It doesn't get to</p> <p>20 the fact that the Chinese are using every possible avenue</p> <p>21 to try to get information about the government. They're</p> <p>22 hacking. They're going over the Internet and getting</p> <p>23 information. They're taking advantage of the fact that</p> <p>24 people are sloppy with data.</p> <p>25 Jim Clapper had a saying, "Don't collect what</p>



<p style="text-align: right;">Page 274</p> <p>1 you can't protect." Well, we collect lots and lots of 2 information and then we send it out by e-mail unsecured 3 all the time. That happened multiple times -- 4 Q. Sorry. I just want to make sure we stay focused 5 on what security screening measures you think are more 6 narrowly tailored than the ones being challenged in -- 7 A. Well, I think the first thing you do is you have 8 to educate the force about the fact that foreign 9 governments may try to use them to attack the United 10 States and they need to report these things to people. 11 And that's the most important thing, is to educate the 12 troops coming in about the threat. 13 And then if you have reason to believe that an 14 individual poses a significant threat, you do special 15 screening on that particular individual to try to get at 16 that, figure that out. 17 Q. So Ms. Stock, when you say if you have reason to 18 suspect a certain individual and then do further screening 19 of that individual, what type of screening do you imagine 20 would be -- do you think would be appropriate for the 21 further screen for that individual? 22 A. Well, in a particular case, just like we do with 23 the rest of the force, you might bring them in and 24 polygraph them. 25 Q. Anything else?</p>	<p style="text-align: right;">Page 276</p> <p>1 screening. You don't broadly tar every single woman in 2 the United States military as a special security threat 3 in -- 4 Q. Once you identify them as being a security 5 threat, then what do you do for purposes of security 6 clearance adjudication? 7 A. Well, it would depend on the case. In some 8 cases you would let them explain themselves, give them the 9 due process, which is required under the security 10 clearance rules. They might be able to appeal if they got 11 denied. In some cases you might open a criminal 12 investigation if something came to light that would lead 13 you in that direction. But it should be individual. You 14 shouldn't just broad brush paint the whole entire group 15 with being some kind of threat. 16 Q. I'd like to go back to Exhibit D, which I handed 17 you before. Exhibit D is a document that's titled 18 "Declaration of Margaret D. Stock." This was signed and 19 executed on May 20th, 2018. 20 Now, Ms. Stock, in your expert report you stated 21 that you were incorporating your prior declarations and 22 the attachments to those declarations in this case; is 23 that correct? 24 A. Yes. In paragraph 1, I said, "I incorporate by 25 reference the opinions, and the basis and reasons for</p>
<p style="text-align: right;">Page 275</p> <p>1 A. Read them their rights, ask them questions, get 2 the FBI involved, perhaps get a search warrant, check 3 their e-mails. I mean, the normal investigative tools 4 that you would use in any counterintelligence screening 5 that you would do on anybody else in the military. Maybe 6 get a FISA warrant. There's a whole range of tools that 7 are out there that we already have that work pretty well. 8 Q. Do you think it would be appropriate if the 9 military is aware of an individual MAVNI soldier who poses 10 a security threat, to make that MAVNI soldier be subjected 11 to additional screening before having a security 12 clearance? 13 A. Absolutely. 14 Q. What type of additional screening do you think 15 would be appropriate to undergo before making a security 16 clearance eligibility determination? 17 A. Okay. So nobody has a constitutional right to a 18 security clearance. Okay? So if an individual person 19 poses some kind of special threat, you can deny them a 20 security clearance if you don't think they can overcome, 21 mitigate the factors. But it should be done on a case-by- 22 case basis. So what you should do is try to figure out 23 whether the individual poses some kind of threat. You 24 don't broadly tar every single gay person in the military 25 as being a security threat in their for deserving special</p>	<p style="text-align: right;">Page 277</p> <p>1 those opinions, as stated in my previously filed affidavit 2 dated April 5th, 2017; my Supplemental Affidavit dated 3 May 19th, 2017; my Declaration dated March 27th, 2018; and 4 my Declaration dated May 21st, 2018." And I think this 5 one is -- 6 Q. I think I read you the wrong date. 7 A. Wait. Looks like I got the wrong date. 26. 8 March 26. I actually signed this on March 26. So there's 9 a typo in my expert report. 10 Q. I think when I described the document, I was 11 describing the wrong one anyway. So we both have -- 12 A. Anyway, what I meant to describe was when it 13 says, "My declaration dated March 27, 2018," I should 14 correct that to March 26. 15 Q. Sure. 16 A. Oh, it was filed on the 27th. That's why. 17 Q. Exhibit D, just to clarify, is a declaration 18 signed and executed by you on March 26, 2018. 19 So I -- 20 A. But filed on March 27th. 21 Q. Filed on March 27th. 22 Is it correct that you've seen this document 23 before? 24 A. Yes, I have seen this document before. I wrote 25 it and signed it.</p>



<p>Page 278</p> <p>1 Q. Did anybody help you with the drafting of this 2 declaration? 3 <b>A. Helped me, yes. I had somebody format it for 4 me. I had Mr. O'Donnell review it before I filed it and 5 did the final version of it.</b> 6 Q. Are there any opinions in this declaration that 7 aren't also contained in your expert report? 8 <b>A. It's incorporated into my expert report.</b> 9 Q. Sure. And are there any opinions in the 10 declaration that aren't stated in the six-page document 11 that's titled your expert report? 12 <b>A. Sure, because this is -- I didn't reprint the 13 whole entire affidavit. I incorporated it by reference.</b> 14 Q. So what opinions are in this declaration that 15 are not in the six-page document that's titled your expert 16 report? 17 <b>A. Paragraph 2, paragraph 3, paragraph 4, paragraph 18 5, paragraph 6, paragraph 7, paragraph 8, paragraph 9.</b> 19 Q. Okay. So maybe let's take those one by one. 20 What's the paragraph -- I'm sorry. 21 In paragraph 2, what's the opinion that you're 22 asserting there that is not contained in the six-page 23 document that's titled your expert report? 24 <b>A. Well, all of those sentences I did not simply 25 cut and paste and put them into my expert report. I</b></p>	<p>Page 280</p> <p><b>1 Department of State --</b> 2 Q. And I asked only about the first sentence in 3 paragraph 2. "When the MAVNI program began in 2008, the 4 program only accepted recruits who were foreigners in the 5 United States legally." 6 <b>A. Well, that's my expert opinion that that was the 7 case.</b> 8 Q. What's the difference to you between a factual 9 statement and an expert opinion? 10 <b>A. The expert opinion is informed by the person's 11 experience, education. And I'm an immigration attorney, 12 and so I can tell whether somebody was in the United 13 States legally in contrast to people who aren't experts 14 who can't tell whether somebody is in the United States 15 legally.</b> 16 Q. So maybe to save us time, Ms. Stock, because I 17 know you care about that. 18 Would it be safe to say that every sentence in 19 this declaration in paragraphs 2 through 9 you consider to 20 be your expert opinions in this case? 21 <b>A. Well, that's why I incorporated it into my 22 expert report.</b> 23 Q. So is your answer "yes"? 24 <b>A. I don't think paragraph 1 is necessarily expert.</b> 25 Q. And I actually only asked about paragraphs 2</p>
<p>Page 279</p> <p><b>1 incorporated them by reference.</b> 2 Q. And I'm interested in understanding what your 3 opinions are that you're offering in this case. 4 Is there an opinion in paragraph 2 of this 5 declaration that is not contained in the six-page report 6 titled your expert report? 7 <b>A. Sure. My opinion is, "When the MAVNI program 8 began in 2008, the program only accepted recruits who were 9 foreigners in the United States legally and who had been 10 in the United States legally for at least two years. As a 11 result, every person who enlisted through the MAVNI 12 program had already undergone numerous background checks 13 with the United States Department of State ("DOS") and/or 14 the United States Department of Homeland Security (or its 15 predecessor agency, the United States Department of 16 Justice's Immigration and Naturalization Service) before 17 enlisting in the U.S. Armed Forces."</b> 18 Q. So Ms. Stock, is it your understanding that that 19 first sentence in paragraph 2 would be offered as an 20 expert opinion in this case? 21 <b>A. Uh-huh.</b> 22 Q. Why is that? How is that an expert opinion? 23 <b>A. It's my expert opinion that every person who 24 enlisted through the MAVNI program had already undergone 25 numerous background checks with the United States</b></p>	<p>Page 281</p> <p>1 through 9. 2 <b>A. I would include them all as part of my expert 3 report.</b> 4 Q. That's not my question. I want to make sure you 5 understand my question and you answer it specifically. 6 My question is, is every sentence in paragraphs 7 2 through 9 of this declaration an expert opinion that 8 you're offering in this case? 9 <b>A. Yes.</b> 10 Q. So let's take a look at one specific paragraph. 11 I just asked -- you just testified that every paragraph in 12 this declaration between paragraphs 2 and 9 and every 13 sentence of that constitute your expert opinion in this 14 case. Paragraph 9 says, "After enlistment, DoD now also 15 further vets MAVNI soldiers by requiring that they undergo 16 an SSBI (now called a Tier 5 investigation), a 17 counterintelligence screening, and a National Intelligence 18 Agency check (NIAC)." End paragraph. 19 How is that an expert opinion? 20 <b>A. Because when the program first began, not all of 21 those checks were required, which is something that's not 22 in the common knowledge.</b> 23 Q. How is that an opinion? 24 <b>A. It's my opinion that that's what DoD is now 25 requiring. Well, not now, because they don't take any</b></p>

<p style="text-align: right;">Page 282</p> <p>1 more MAVNIs. But that was at the point that the program 2 changed to require additional checks. When the program 3 started, they didn't require all of these checks to be 4 done. 5 Q. Would you testify at trial before Judge Zilly in 6 this case that paragraph 9 constitutes your expert 7 opinion? 8 A. It's part of my expert opinion. It's not my 9 whole expert opinion. It's information supporting my 10 expert opinion. I mean, I wrote it, so it's part of my 11 opinion. 12 Q. Okay. So Ms. Stock, what I'm trying to 13 discern -- I asked you before to identify the expert 14 opinions you're offering in this case, and the government 15 is entitled to know that. I'm sure you're aware of that 16 from your time as an attorney. And I'm asking you what 17 opinions are you offering in this declaration that you 18 aren't offering in the six-page document that you entitled 19 your expert report. 20 Are you able to identify for me any expert 21 opinions that are in the March 26, 2018, declaration that 22 are not contained in your six-page expert report? 23 A. Sure. As I said before, I incorporated -- 24 Q. I'm asking about specific expert opinions. 25 Are you able to point me to any specific expert</p>	<p style="text-align: right;">Page 284</p> <p>1 report. 2 I'm asking whether there are any separate expert 3 opinions in the declaration that aren't in your six-page 4 expert report. 5 A. Yes. This is a separate expert opinion about 6 the vetting, why they're the most vetted. 7 Q. What in your -- maybe we have a fundamental 8 misunderstanding about what is an expert opinion. 9 What is your understanding -- and I know you're 10 a trained lawyer who has used experts in other cases. 11 What's your understanding from that experience of what 12 expert testimony is? 13 A. Expert testimony is testimony that explains the 14 facts, and in this particular case, the basis for the 15 plaintiffs' claims that they are being discriminated 16 against on the basis of national origin. National origin 17 discrimination is happening here, and in order to 18 understand what DoD is doing, you have to understand the 19 security screening that the MAVNIs went through. 20 So in order to provide my expert opinion, I have 21 to explain it. I've got to explain what most vetted 22 means, which is in my expert report, and this is expert 23 opinion evidence about the vetting that the MAVNIs go 24 through, including these exhibits talking about the 25 vetting that...</p>
<p style="text-align: right;">Page 283</p> <p>1 opinions in this document that are not contained in your 2 six-page expert report? 3 A. Well, in this report I didn't go through the 4 background of the MAVNI program. I didn't explain the 5 evolution of the expert -- or the background checks. I 6 didn't explain the details of all the different background 7 checks that people have to undergo -- 8 Q. Ms. Stock, I'm not asking for explanations. I'm 9 asking for expert opinions. I'm asking for what are your 10 opinions as an expert in this case. You've cited to these 11 declarations in your expert report. 12 I'm asking, are there any expert opinions in the 13 March 26, 2018, declaration that are not contained in your 14 six-page expert report? 15 A. Yes. 16 Q. What are they? 17 A. When I talked about the most vetted -- I talked 18 about the fact in my expert report that these are the most 19 vetted recruits. If I can find you the section. Page 4. 20 So this is an explanation that explains the basis for my 21 expert opinion regarding the most vetted recruits who join 22 the U.S. Armed Forces, why these are the most vetted 23 recruits. 24 Q. I appreciate that, and I'm not asking for the 25 basis for the opinions contained in your six-page expert</p>	<p style="text-align: right;">Page 285</p> <p>1 Q. So it fair to say from what you just said that 2 you consider expert opinion to provide factual summaries? 3 A. Well, experts rely on facts about things like 4 vetting. What is the vetting that the MAVNIs are going 5 through? The average person isn't going to know anything 6 about the CLASS system or the Terrorist Screening Center 7 or TECS or anything like that, and so in order to support 8 my opinion, I've got to explain the basis for the opinion. 9 That's required. And so here I'm explaining the basis for 10 my opinion. 11 Q. So I just want the record to reflect that when 12 Ms. Stock referred to "opinion" she pointed her hand to 13 the six-page document referred as expert report, and then 14 when she referred to explain the basis for that opinion, 15 she pointed her hand to the March 26, 2018, declaration. 16 A. Correct. That's because -- 17 Q. So I think you understand the difference between 18 opinions and the explanation for those opinions. My 19 question -- 20 A. Well, I was pointing to -- 21 Q. Ms. Stock, I'm sorry. I haven't asked -- 22 A. -- I was pointing to this because it 23 incorporates -- 24 Q. Ms. Stock, I haven't asked you a question. 25 Please wait.</p>

<p>Page 286</p> <p>1 My question to you -- and I think you understand 2 the difference between an expert opinion and the basis for 3 that opinion is, are there any expert opinions -- are 4 there any expert opinions in your March 26, 2018, 5 declaration? Are there any expert opinions in here? 6 <b>A. Yes, there are.</b> 7 Q. What are they? Don't point me to them. Just 8 tell me what they are. What is your opinion testimony 9 that's in the March 26, 2018, declaration? 10 <b>A. My opinion testimony is that the MAVNIs are</b> 11 <b>vetted extraordinarily by various government agencies</b> 12 <b>before they even walk into a recruiting station.</b> 13 Q. Anything else? 14 <b>A. Yes. And I explained that in the declaration.</b> 15 <b>I went into great detail about the different vettings, the</b> 16 <b>different security systems that are applied. This is</b> 17 <b>expert opinion evidence. And then I incorporated it into</b> 18 <b>my expert report. That's why I didn't want to just repeat</b> 19 <b>wholesale paragraphs from prior declarations. I suppose I</b> 20 <b>could have done that, but I didn't for the sake of</b> 21 <b>convenience. I simply referred --</b> 22 Q. Whose convenience? 23 <b>A. My convenience.</b> 24 Q. Whose convenience was that? 25 <b>A. My convenience.</b></p>	<p>Page 288</p> <p>1 MR. SWINTON: Why don't we take a break. 2 Before we go off the record, I'll ask the 3 witness again not to talk to Mr. O'Donnell about the 4 deposition. 5 (Recess taken) 6 BY MR. SWINTON: 7 Q. We're back on the record. 8 Ms. Stock, did you discuss the deposition during 9 the break with Mr. O'Donnell? 10 MR. O'DONNELL: Same instruction. 11 MR. SWINTON: Mr. O'Donnell, I'll again ask, do 12 you have any authority to cite me to for your objection? 13 MR. O'DONNELL: Not with me, but you could look 14 at the last case that Joe Dugan read to me which agrees 15 with my position. 16 MR. SWINTON: Do you have any other authority 17 other than that case? 18 MR. O'DONNELL: I haven't spent much time 19 looking at it. 20 BY MR. SWINTON: 21 Q. Ms. Stock, let's move on from the declaration we 22 looked at before. I'm going to hand you a new exhibit. 23 (Exhibit F marked) 24 Q. I just handed you a document marked as 25 Exhibit F. This is labeled -- or titled "Affidavit of</p>
<p>Page 287</p> <p>1 Q. Is it hard to cut and paste? 2 <b>A. It takes time and it seemed like an unnecessary</b> 3 <b>burden on you because you already had the information, so</b> 4 <b>I was simply going to be giving you more paperwork.</b> 5 Q. You referred twice to "expert opinion evidence." 6 What's expert opinion evidence? 7 <b>A. Well, an expert report is evidence in a case.</b> 8 Q. Do you consider your declarations to be expert 9 opinion evidence? 10 <b>A. They're expert opinions.</b> 11 Q. Do you consider them to be expert opinion 12 evidence? 13 <b>A. What's your definition of "expert opinion</b> 14 <b>evidence"?</b> 15 Q. So you used twice the phrase "expert opinion 16 evidence." 17 Is there a difference to you between expert 18 opinions and expert opinion evidence? 19 <b>A. I think you used it.</b> 20 Q. I'm sorry. Actually, you used it twice, and I'm 21 trying to understand what you meant by that. 22 <b>A. I'm trying to understand what you're meaning. I</b> 23 <b>mean, I'm having a hard time with your questions. I'm</b> 24 <b>sorry.</b> 25 Q. That's okay.</p>	<p>Page 289</p> <p>1 Margaret D. Stock." It's dated April 1st, 2017. 2 Is it correct that you've seen this document 3 before because you wrote it? 4 <b>A. Yes, I've seen it before. Okay. And so it was</b> 5 <b>filed April 5th. So the dates in the opinion are the</b> 6 <b>dates the document was filed.</b> 7 Q. Thank you for the clarification. 8 Were you asked to provide this affidavit in the 9 Tiwari case? 10 <b>A. Yes.</b> 11 Q. Why did you provide it? 12 <b>A. As part of my expert opinion.</b> 13 Q. Were you serving as an expert witness in April 14 2017 in the Tiwari case? 15 <b>A. Yes.</b> 16 Q. When did you begin serving as an expert witness 17 in the case? 18 <b>A. I can't recall the exact date.</b> 19 Q. Was it before the complaint was filed? 20 <b>A. I can't recall the exact date.</b> 21 Q. Do you recall whether it was before the 22 complaint was filed in the case? 23 <b>A. I don't recall.</b> 24 Q. Does this affidavit contain expert opinions? 25 <b>A. Yes.</b></p>

<p>Page 290</p> <p>1 Q. What are those expert opinions?</p> <p>2 <b>A. 2. Paragraph 2.</b></p> <p>3 Q. And I'm sorry. Instead of identifying the</p> <p>4 paragraphs, can you tell me what the expert opinions are?</p> <p>5 <b>A. "The project began with a briefing I gave to the</b></p> <p>6 <b>Secretary of the Army in the fall of 2007. The MAVNI</b></p> <p>7 <b>program was designed to address critical shortages of</b></p> <p>8 <b>personnel in the U.S. Armed Forces by allowing noncitizens</b></p> <p>9 <b>to enlist in the military if they were legally present in</b></p> <p>10 <b>the United States and did not yet have 'green cards'</b></p> <p>11 <b>(lawful permanent residence) but met certain other</b></p> <p>12 <b>requirements."</b></p> <p>13 <b>Paragraph 3. "Army MAVNI enlistees were</b></p> <p>14 <b>required to meet all of the usual requirements for</b></p> <p>15 <b>enlistment except they were required to score higher on</b></p> <p>16 <b>the Armed Forces Qualification Test than other military</b></p> <p>17 <b>recruits and were ineligible for any 'moral' or conduct</b></p> <p>18 <b>waivers."</b></p> <p>19 <b>Paragraph 4. "MAVNI recruits were required to</b></p> <p>20 <b>apply for naturalization as United States citizens, and</b></p> <p>21 <b>were advised of this requirement as part of the enlistment</b></p> <p>22 <b>contract process. The naturalization process requires the</b></p> <p>23 <b>noncitizen to complete USCIS Form N-400, undergo extensive</b></p> <p>24 <b>Department of Homeland Security background checks</b></p> <p>25 <b>(including an FBI name check), pass an English and civics</b></p>	<p>Page 292</p> <p>1 on time. So it sounds like it's going to be shorter if</p> <p>2 you identify -- and maybe -- I'd like to ask the question.</p> <p>3 What parts of this affidavit do you consider not</p> <p>4 to be part -- to not be expert opinion testimony?</p> <p>5 <b>A. "As one example, the U.S. Army Soldier of the</b></p> <p>6 <b>Year in 2012, Saral Shrestha, was recruited through the</b></p> <p>7 <b>MAVNI program. The DoD commissioned an independent</b></p> <p>8 <b>consulting firm, Human Resources Research Organization</b></p> <p>9 <b>(HumRRO), to review and evaluate the program. Their</b></p> <p>10 <b>February 20th, 2013, report concluded variously that:</b></p> <p>11 <b>Based on characteristics in our analyses, MAVNI</b></p> <p>12 <b>soldiers compare exceptionally well to non-MAVNI soldiers.</b></p> <p>13 <b>They bring a significantly higher level of language</b></p> <p>14 <b>proficiency to the Army than do their Army Special</b></p> <p>15 <b>Operations Forces (ARSOFF)-trained and Defense Language</b></p> <p>16 <b>Institute-tested counterparts, thereby increasing the</b></p> <p>17 <b>Army's capability in critical languages. They have a</b></p> <p>18 <b>higher predicted performance than non-MAVNI soldiers based</b></p> <p>19 <b>on the GT score even when the model controls for</b></p> <p>20 <b>education, sex, and race.</b></p> <p>21 <b>"The majority of supervisors indicated that</b></p> <p>22 <b>proficiency in reading, writing, speaking, and</b></p> <p>23 <b>understanding English among Critical Foreign</b></p> <p>24 <b>Language-MAVNI soldiers was the same as or better than</b></p> <p>25 <b>native-English speaking soldiers. Evaluation results</b></p>
<p>Page 291</p> <p>1 test, be interviewed by a United States Citizenship and</p> <p>2 Immigration Services officer, and participate in a</p> <p>3 naturalization oath ceremony."</p> <p>4 <b>"The MAVNI program" -- paragraph 5. "The MAVNI</b></p> <p>5 <b>program initially began recruiting people in 2009.</b></p> <p>6 <b>Recruits enlisted through the MAVNI program were assured</b></p> <p>7 <b>repeatedly, in writing and orally, that they would have</b></p> <p>8 <b>the same career opportunities, once naturalized, as any</b></p> <p>9 <b>other United States Citizen serving in the United States</b></p> <p>10 <b>Armed Forces."</b></p> <p>11 <b>Paragraph 6. "To have a successful long-term</b></p> <p>12 <b>career in the United States Armed Forces today, a person</b></p> <p>13 <b>must be a United States citizen" --</b></p> <p>14 Q. Ms. Stock, I'm sorry. I'm going to interrupt</p> <p>15 you.</p> <p>16 Is it your testimony that paragraphs 2 through</p> <p>17 19 constitute your expert opinion that was provided in</p> <p>18 this affidavit?</p> <p>19 <b>A. There's a couple of places where I would omit</b></p> <p>20 <b>sentences here and there.</b></p> <p>21 Q. Maybe it's easier -- why don't you tell us what</p> <p>22 sentences you would omit.</p> <p>23 <b>A. It's easier for me to read the part that's my</b></p> <p>24 <b>expert opinion and then skip the ones that aren't.</b></p> <p>25 Q. I'm interested again in making sure that we stay</p>	<p>Page 293</p> <p>1 indicate that CFL-MAVNI soldiers are of high 'quality' --</p> <p>2 findings that are consistent with the selection of a</p> <p>3 CFL-MAVNI recruit as the Army's 2012 Soldier of the Year.</p> <p>4 <b>"More than half of MAVNIs indicated they would</b></p> <p>5 <b>probably or definitely stay in the Army until retirement."</b></p> <p>6 <b>That's a fact of a report that I relied on for</b></p> <p>7 <b>my opinion. I didn't write the report.</b></p> <p>8 Q. Do you consider facts to be different than</p> <p>9 expert opinions?</p> <p>10 <b>A. Sometimes, but opinions rely on facts, and so</b></p> <p>11 <b>it's a little bit fuzzy. That's a fact that the report</b></p> <p>12 <b>said that. That's not my opinion. But I relied on that.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. You want me to keep going?</b></p> <p>15 Q. No. I'm not enjoying this. I'm sure you know.</p> <p>16 <b>A. You seem to be enjoying it.</b></p> <p>17 Q. Let's move on, Ms. Stock, to another affidavit</p> <p>18 that you filed.</p> <p>19 (Exhibit G marked)</p> <p>20 Q. So Ms. Stock, I just handed you a document</p> <p>21 that's been marked as Exhibit G. This is titled</p> <p>22 "Supplemental Affidavit of Margaret Stock." This was</p> <p>23 signed and executed on May 19th, 2017.</p> <p>24 And is it correct to say that you've seen this</p> <p>25 document before because you wrote it?</p>



<p style="text-align: right;">Page 294</p> <p>1     <b>A. Yes, I have seen it before. Yes.</b> 2     Q. Why did you provide this supplemental affidavit 3 in the case? 4     <b>A. Let's see. I would have to see the filings of</b> 5 <b>that day to recall exactly why I filed it. But presumably</b> 6 <b>I filed it to address an issue in the case that required</b> 7 <b>my expert opinion.</b> 8     Q. Did you file the supplemental affidavit in your 9 capacity as an expert in the case? 10    <b>A. I did.</b> 11    Q. Do you consider this supplemental affidavit to 12 contain expert testimony? 13    <b>A. I do.</b> 14    Q. Are there any expert opinions contained in this 15 affidavit that are not contained in the six-page document 16 that you've called your expert report? 17    <b>A. Yes.</b> 18    Q. Can you tell me what those expert opinions are 19 that are in this supplemental affidavit that are not in 20 the six-page document that is called your expert report? 21    <b>A. Paragraph 2 goes to my qualifications as an</b> 22 <b>expert.</b> 23    Q. Again, I'm interested in your expert opinion. 24 So I'd be interested if you pointed me to sections which 25 contain your expert opinions.</p>	<p style="text-align: right;">Page 296</p> <p>1 <b>Secretary of the Army in the fall of 2007. The MAVNI</b> 2 <b>program was designed to address critical shortages of</b> 3 <b>personnel in the U.S. Armed Forces by allowing noncitizens</b> 4 <b>to enlist in the U.S. military if they were legally</b> 5 <b>present in the United States and did not yet have 'green</b> 6 <b>cards' (lawful permanent residence) but met certain other</b> 7 <b>requirements."</b> 8     Q. And I'm sorry. I think it might be more 9 efficient if you just identify the paragraph numbers that 10 contain your -- 11    <b>A. Paragraph 2. You want me to continue?</b> 12    Q. Yes, for the whole document, please. 13    <b>A. Paragraph 3. "The MAVNI program was initially</b> 14 <b>authorized by Secretary of Defense Robert Gates in</b> 15 <b>November 2008. Secretary Gates authorized the U.S. Armed</b> 16 <b>Services to recruit two categories of MAVNI enlistees:</b> 17 <b>1. Health Care Professionals (HCPs), who were legally</b> 18 <b>present noncitizens with certain U.S. medical licenses or</b> 19 <b>credentials, and 2. language enlistees who were legally</b> 20 <b>present noncitizens who had demonstrated expertise in</b> 21 <b>certain strategic foreign languages.</b> 22       <b>"Army MAVNI enlistees were required to meet all</b> 23 <b>of the usual requirements for enlistment except that they</b> 24 <b>were required to score higher on the Armed Forces</b> 25 <b>Qualification Test (AFQT) than other military recruits and</b></p>
<p style="text-align: right;">Page 295</p> <p>1     <b>A. Okay. Paragraph 3, paragraph 4, paragraph 5,</b> 2 <b>paragraph 6. Paragraph 8 contains a sentence, "These</b> 3 <b>lengthy residences in the United States are not unusual</b> 4 <b>for MAVNI recruits. Many MAVNIs have attended high school</b> 5 <b>and/or college in the U.S. for four or more years and then</b> 6 <b>worked in the U.S. under work visas for several years</b> 7 <b>before joining one of the U.S. Armed Forces through the</b> 8 <b>MAVNI program."</b> 9       <b>Question 9 -- or paragraph 9, paragraph 10,</b> 10 <b>paragraph 11, paragraph 12, paragraph 13, paragraph 14,</b> 11 <b>paragraph 15, paragraph 16, paragraph 17, paragraph 18,</b> 12 <b>paragraph 19, paragraph 20, paragraph 21, paragraph 22,</b> 13 <b>paragraph 23, paragraph 25, paragraph 26, paragraph 27,</b> 14 <b>paragraph 28, the section that offers my opinion. 29 is</b> 15 <b>basically facts.</b> 16     Q. If you don't mind, I'd actually like to go back 17 to Exhibit F, which is your declaration from -- signed on 18 April 1st, 2017. I think it's actually helpful and 19 efficient to go through it by paragraph number, which you 20 were doing before and then I cut you off. So I apologize 21 for that. I think you had reviewed this already. 22       Would you mind going through and identifying by 23 paragraph number which paragraphs contain your expert 24 opinion for this affidavit? 25    <b>A. "The project began with a briefing I gave to the</b></p>	<p style="text-align: right;">Page 297</p> <p>1 <b>were ineligible for any 'moral' or conduct waivers."</b> 2       <b>Paragraph 4. "MAVNI recruits were required to</b> 3 <b>apply for naturalization as United States citizens and</b> 4 <b>were advised of this requirement as part of the enlistment</b> 5 <b>contract process. The naturalization process requires the</b> 6 <b>noncitizen to complete USCIS Form N-44, undergo extensive</b> 7 <b>Department of Homeland Security background checks</b> 8 <b>(including an FBI name check), pass an English and civics</b> 9 <b>test, be interviewed by a United States Citizenship and</b> 10 <b>Immigration Services officer, and participate in a</b> 11 <b>naturalization oath ceremony."</b> 12     Q. Ms. Stock, I don't need you actually to read 13 every paragraph that contains your expert opinion. I just 14 would like you to identify by paragraph number which 15 paragraphs contain your expert opinion. 16    <b>A. Okay. So paragraph 2 contains some of my expert</b> 17 <b>opinion. 3, 4, 5, 6, 7, 8. First sentence in 9. 11, 12,</b> 18 <b>13, 14. 15 contains information on which I relied in</b> 19 <b>making my expert opinion, but it's not my opinion. It's</b> 20 <b>factual. 16. 17 is one of the unconstitutional guidance</b> 21 <b>documents that's not part of my expert opinion, but of</b> 22 <b>course I rely on it. 18 and 19.</b> 23       (Exhibit H marked) 24     Q. Ms. Stock, I just handed you a document that's 25 been marked as Exhibit H. This is titled "Declaration of</p>

<p style="text-align: right;">Page 298</p> <p>1 Margaret B. Stock." It was signed and executed on 2 May 20th, 2018. 3 Is it fair to say that you've seen this document 4 before because you wrote it? 5 <b>A. Yes, that's correct.</b> 6 Q. And as we did with the other declarations and 7 affidavits, I'd like you to identify for me by paragraph 8 number which paragraphs contain your expert opinion in 9 this declaration. 10 <b>A. Paragraph 3, paragraph 4, paragraph 5,</b> 11 <b>paragraph 6. I should qualify 6 by saying that, since the</b> 12 <b>date I signed this affidavit, I've become aware of more</b> 13 <b>MAVNIs who have been the subject of deportation</b> 14 <b>proceedings. None of them are naturalized citizens,</b> 15 <b>though.</b> 16 <b>Paragraph 7, paragraph 8. And paragraph 9, I</b> 17 <b>should qualify that by saying that I'm not aware of any</b> 18 <b>against any naturalized MAVNI, but there is one that was</b> 19 <b>in the news recently that we discussed earlier, Chaoqun</b> 20 <b>Ji. For the reporter, that's C-h-a-o-q-u-n J-i spelled in</b> 21 <b>English letters. That was made public because DOJ</b> 22 <b>prosecuted the individual for failure to register as a</b> 23 <b>foreign agent. Paragraph 10.</b> 24 Q. So if I understand what you just said correctly, 25 the only paragraph -- it's fair to say that the only two</p>	<p style="text-align: right;">Page 300</p> <p>1 <b>Specialist Zhu. DHS, however, has not charged him with</b> 2 <b>visa fraud. Rather, DHS has charged him with failure to</b> 3 <b>maintain his F-1 student status because he joined the</b> 4 <b>Army. Specialist Zhu has filed an independent mandamus</b> 5 <b>action against DHS seeking to compel DHS to process Zhu's</b> 6 <b>citizenship application."</b> 7 <b>I mean, that's an expert opinion because it's</b> 8 <b>not possible for somebody unfamiliar with the immigration</b> 9 <b>court system to understand what charges are unless you're</b> 10 <b>an expert. And therefore, that's how Chris Arendt, I</b> 11 <b>think, got mixed up and claimed people were committing</b> 12 <b>visa fraud when they weren't committing visa fraud.</b> 13 <b>He was apparently referring to people who had</b> 14 <b>attended UNNJ, and, in fact, those people hadn't committed</b> 15 <b>visa fraud. They weren't charged with visa fraud. They</b> 16 <b>were charged with failure to maintain student status. But</b> 17 <b>unless you're familiar with immigration law, you might</b> 18 <b>easily get confused about that.</b> 19 Q. Ms. Stock, I want to make sure we stay on track 20 here. I have just a couple more questions for you. 21 Ms. Stock, actually, before we go on to a few 22 more documents, I have just a couple questions for you. 23 If DoD has security concerns about soldiers who 24 enlist via the MAVNI program, should DoD be able to 25 conduct background checks before MAVNI soldiers are</p>
<p style="text-align: right;">Page 299</p> <p>1 paragraphs in this declaration that do not contain your 2 expert opinion are 1 and 2? 3 <b>A. Well, 2 explains the basis for my expert</b> 4 <b>opinion. And there are sentences here and there that</b> 5 <b>wouldn't be opinion. They're factual, but those are the</b> 6 <b>paragraphs that contain parts of my expert opinion. But</b> 7 <b>like, for example, paragraph 6 largely consists of a quote</b> 8 <b>from a court case, and obviously the court opinion is not</b> 9 <b>my opinion. It's just something I'm relying on for making</b> 10 <b>my opinion.</b> 11 Q. What's your opinion in paragraph 6? 12 <b>A. "DHS has to my knowledge only instituted</b> 13 <b>deportation proceedings against two students who enrolled</b> 14 <b>at UNNJ: Specialist Zhu and a civilian named Srikanth</b> 15 <b>Kasim Reddy. In the deportation case against Mr. Reddy, a</b> 16 <b>federal immigration judge determined that there was no</b> 17 <b>fraud on the part of the student."</b> 18 Q. So those first two sentences are your expert 19 opinion in paragraph 6? 20 <b>A. Uh-huh. My opinion, yep. But I said I qualify</b> 21 <b>that now because I found out after that that they've</b> 22 <b>started proceedings against additional people who are</b> 23 <b>enrolled at UNNJ.</b> 24 Q. What's your expert opinion in paragraph 7? 25 <b>A. "DHS has commenced removal proceedings against</b></p>	<p style="text-align: right;">Page 301</p> <p>1 shipped to basic training? 2 <b>A. They should be able to conduct them and complete</b> 3 <b>them before they enlist them.</b> 4 Q. Should DoD -- if DoD has security concerns about 5 soldiers who enlist via the MAVNI program, should DoD be 6 able to conduct background checks before MAVNI soldiers 7 naturalize as U.S. citizens? 8 <b>A. I don't think that's an issue in this case.</b> 9 <b>These are all -- this case is all naturalized American</b> 10 <b>citizens.</b> 11 Q. Sure. And I'm asking you a question about 12 whether, if DoD has security concerns about soldiers who 13 enlist via the MAVNI program, should be able to conduct 14 background checks before MAVNI soldiers naturalize as U.S. 15 citizens? 16 MR. O'DONNELL: Incomplete hypothetical. 17 <b>THE WITNESS: I just don't understand the</b> 18 <b>relevance to this particular case.</b> 19 BY MR. SWINTON: 20 Q. That's fine. As I'm sure you know, a relevance 21 objection isn't a basis to not answer a question. So I 22 would ask you to answer the question. 23 <b>A. Well, it's an extraordinarily broad question.</b> 24 <b>DoD doesn't naturalize people.</b> 25 Q. And that's -- I'm not asking you to assume that</p>

<p style="text-align: right;">Page 302</p> <p>1 to be true for the purposes of my question. Let me repeat 2 it again to make sure you understand it. 3 If DoD has security concerns about soldiers who 4 enlist via the MAVNI program, should DoD be able to 5 conduct background checks before MAVNI soldiers naturalize 6 as U.S. citizens? 7 MR. O'DONNELL: Object to the form of the 8 question. 9 <b>THE WITNESS: I guess I'm -- can you clarify</b> 10 <b>what you're trying to get at with regard to this lawsuit?</b> 11 BY MR. SWINTON: 12 Q. Again, the relevancy isn't a basis to not answer 13 a question. So I would ask you to answer the question. 14 <b>A. Well, I mean, as a factual matter, DoD conducts</b> 15 <b>background checks on all MAVNIs, and they can't</b> 16 <b>naturalize -- if they're naturalizing through military</b> 17 <b>service based on their enlistment into the military, which</b> 18 <b>not all of them are, then that would always happen as a</b> 19 <b>factual matter.</b> 20 Q. I'm asking, in your opinion, based on your 21 experience with the MAVNI program, if DoD has security 22 concerns about soldiers who enlist via the MAVNI program, 23 should DoD be able to conduct background checks before 24 MAVNI soldiers naturalize as U.S. citizens? 25 MR. O'DONNELL: Same objection.</p>	<p style="text-align: right;">Page 304</p> <p>1 Q. So how about for individuals -- I'm talking 2 about individuals who enlist via the MAVNI program and 3 naturalize via -- due to their enlistment in the MAVNI 4 program. 5 If DoD has security concerns about such 6 individuals, should it be able to conduct background 7 checks before they naturalize as U.S. citizens? 8 <b>A. They always do. It's not possible for it to</b> 9 <b>happen. You can't get into the military without</b> 10 <b>background checks. So DoD is always doing background</b> 11 <b>checks before they let somebody into the military.</b> 12 Q. Okay. Let me ask it a little bit differently. 13 If DoD has security concerns about soldiers who 14 enlist via the MAVNI program, should it be able to 15 complete military suitability screening determinations 16 before those MAVNI soldiers naturalize as U.S. citizens? 17 <b>A. Okay. Once again, I mean, you know, you're</b> 18 <b>assuming that the security concerns have something to do</b> 19 <b>with the particular individual? Is that your assumption?</b> 20 Q. Yes. If DoD has security concerns about MAVNI 21 soldiers. 22 <b>A. But as a group, I don't agree that DoD should</b> 23 <b>hold up the naturalization of every single MAVNI because</b> 24 <b>they think somebody -- some foreign government might try</b> 25 <b>to infiltrate the MAVNI program, no. I mean, for one</b></p>
<p style="text-align: right;">Page 303</p> <p>1 <b>THE WITNESS: Yeah. I mean, that --</b> 2 <b>Mr. Swinton, the problem is, that always happens, because</b> 3 <b>you can't get into the military without background checks,</b> 4 <b>and until you're in the military and you're trying to</b> 5 <b>naturalize as a MAVNI, you -- you don't apply for</b> 6 <b>citizenship. So you always have DoD background checks.</b> 7 <b>At least -- I mean, the exception would be if</b> 8 <b>you're a MAVNI who didn't follow through, you dropped out,</b> 9 <b>you got discharged. Then you might naturalize as a</b> 10 <b>civilian. And no, DoD would not have any right to conduct</b> 11 <b>any background check on you because you're naturalizing as</b> 12 <b>a civilian.</b> 13 BY MR. SWINTON: 14 Q. Should DoD -- if DoD has security concerns about 15 soldiers who enlist via the MAVNI program, should DoD be 16 able to complete background checks before MAVNI soldiers 17 naturalize as U.S. citizens? 18 <b>A. That's what happens.</b> 19 Q. So do I understand your answer to be "yes"? 20 <b>A. Well, again, I think you've got to tell me about</b> 21 <b>the fact situation, because not everybody naturalizes</b> 22 <b>through the military through the MAVNI program. Okay. So</b> 23 <b>DoD has no role to play in doing background checks on a</b> 24 <b>civilian who is naturalizing. They just don't do that,</b> 25 <b>so --</b></p>	<p style="text-align: right;">Page 305</p> <p>1 <b>thing, the problem is that they can never get their</b> 2 <b>citizenship if that's the case, because DoD never</b> 3 <b>finishes -- I mean, you know the glacial rate at which</b> 4 <b>they're processing these MSSDs. They're just not doing</b> 5 <b>them on people. How many have you -- I think you were in</b> 6 <b>court the other day, and I read the transcript and it's</b> 7 <b>been just a --</b> 8 Q. I want to make sure we stay on track, Ms. Stock. 9 <b>A. Just a handful of people have had them done,</b> 10 <b>so --</b> 11 Q. Let me ask you another question. 12 If DoD becomes aware of information that it 13 conducts from its own background checks, in your opinion, 14 should DoD be able to share that information with USCIS to 15 use as part of the naturalization determination? 16 <b>A. Absolutely. But they don't.</b> 17 (Exhibit I marked) 18 Q. Ms. Stock, I just handed you a document marked 19 as Exhibit I. It's titled "The Impact and Potential of 20 America's Foreign Born Population on Army Recruiting and 21 Force 2025." And below that it says, "Naomi Verdugo and 22 Margaret Stock." 23 Have you seen this document before? 24 <b>A. Yes.</b> 25 Q. What is it?</p>

<p style="text-align: right;">Page 306</p> <p>1     <b>A. It's a paper that Naomi Verdugo and I wrote to</b>  2     <b>present to U.S. Army Recruiting Command at their</b>  3     <b>invitation. They invited me to come to Fort Knox,</b>  4     <b>Kentucky and present the paper at a conference that a lot</b>  5     <b>of DoD officials attended -- Army officials and DoD</b>  6     <b>officials attended.</b>  7     Q. Has this paper been made -- have you used this  8     paper in any situation other than the recruiting event in  9     Fort Knox, Kentucky that you just mentioned?  10    <b>A. I have e-mailed it to people who ask me for</b>  11    <b>copies of it.</b>  12    Q. Has it been published anywhere?  13    <b>A. Army Recruiting Command published it.</b>  14    Q. Where did they publish it?  15    <b>A. They put it on their website.</b>  16    Q. When did you write this document?  17    <b>A. Do you have that slide show? Whatever the date</b>  18    <b>of the slide show is.</b>  19    Q. We'll look at the slide show in a minute.  20    <b>A. It was post-retirement.</b>  21    Q. Were the slide show and the paper written at the  22    same time?  23    <b>A. The paper was written before the slide show. I</b>  24    <b>had to finish the paper -- they had basically rules about</b>  25    <b>when they wanted the papers to be presented. And it was</b></p>	<p style="text-align: right;">Page 308</p> <p>1     Q. Who are the recommendations for?  2     <b>A. They were recommendations for DoD and Army</b>  3     <b>leaders who were attending the conference.</b>  4     Q. Were you asked to make recommendations in this  5     paper?  6     <b>A. Yes, I was.</b>  7     Q. Did you and Naomi Verdugo analyze any security  8     issues presented by the MAVNI program as part of this  9     paper?  10    <b>A. We looked at them somewhat. I don't think we --</b>  11    <b>I mean, that wasn't really a focus of the paper because we</b>  12    <b>expected the security screening to continue the way it had</b>  13    <b>been, and it had been successful. But we do talk about</b>  14    <b>security screening in the paper. You will find that on</b>  15    <b>page 10, paragraph 3.</b>  16        <b>And then we talked about that extensively at</b>  17    <b>the -- the slides have a lot of information, the back-up</b>  18    <b>slides. Because it was always the topic of discussion</b>  19    <b>among people who were discussing the MAVNI program.</b>  20    Q. One more exhibit.  21        (Exhibit J marked)  22    Q. Ms. Stock, I just handed you a PowerPoint  23    presentation that's been marked as Exhibit J. It appears  24    to be a PowerPoint presentation titled "Impact and  25    Potential of Recruiting the Foreign Born Briefing" -- I'm</p>
<p style="text-align: right;">Page 307</p> <p>1     <b>peer-reviewed, so I had to present a draft of the paper to</b>  2     <b>people at Army Recruiting Command, and then they had</b>  3     <b>anonymous peer reviewers review it. And then they made</b>  4     <b>comments and gave it back to me, and I had to make changes</b>  5     <b>to it.</b>  6        <b>And then I had to send it in by a deadline for</b>  7     <b>the conference that they were having. And the slides I</b>  8     <b>had to do right before the conference, and I had to send</b>  9     <b>them in. And then I officially presented the final</b>  10    <b>version of the paper after the conference because the idea</b>  11    <b>was we would discuss everything at the conference and then</b>  12    <b>there would be a final version of the paper and then they</b>  13    <b>put -- there was a video that they put up on their</b>  14    <b>website, and they put the papers up on their website.</b>  15    Q. The 2025 in the title of the paper, does that  16    refer to the year 2025?  17    <b>A. It refers to force 2025, which is the projected</b>  18    <b>force in the future. We were looking ahead to see what</b>  19    <b>challenges we were going to have recruiting people in the</b>  20    <b>future.</b>  21    Q. If you look and just flip through pages 7 to 12,  22    page 7 has a heading that's underlined that says, "MAVNI  23    Program Recommendations," and it looks like that section  24    continues to page 12. Do you see that?  25    <b>A. Yes.</b></p>	<p style="text-align: right;">Page 309</p> <p>1     sorry -- "Impact and Potential of Recruiting the Foreign  2     Born Briefing to Recruiting 2025 Forum."  3     <b>A. That's correct. That's the name of the</b>  4     <b>conference. It was called Recruiting 2025 Forum.</b>  5     Q. And at the bottom it has the names Naomi Verdugo  6     and Margaret Stock.  7        Did you prepare this document?  8     <b>A. I believe Dr. Verdugo prepared it, but I had</b>  9     <b>input. We would send it back and forth. It's the typical</b>  10    <b>thing that people do when they're presenting at a</b>  11    <b>conference. Somebody comes up with the first version of</b>  12    <b>the slide deck and they send it to the other person and</b>  13    <b>they make changes and, I think, as I recall, that's how we</b>  14    <b>went back and forth.</b>  15    Q. Is this the PowerPoint presentation that you  16    referenced earlier that you presented at the conference at  17    Fort Knox, Kentucky?  18    <b>A. I believe so, yes. At least this is the version</b>  19    <b>that I happened to have on my computer when I was</b>  20    <b>preparing my expert report.</b>  21    Q. Has this document been published anywhere?  22    <b>A. Yes. Well, the official version of it,</b>  23    <b>whichever version they had, the Army Recruiting Command</b>  24    <b>put it on their website after the conference or around the</b>  25    <b>time of the conference.</b></p>



<p style="text-align: right;">Page 310</p> <p>1 Q. You mentioned back-up slides, which I think 2 start at -- well, it's labeled page 11 but then it goes to 3 page 7, so I'm not sure -- 4 <b>A. Right.</b> 5 Q. -- the pagination is the same. 6 But what's the purpose of the back-up section? 7 <b>A. Well, the normal way you give a presentation is</b> 8 <b>you have the main points that you want to talk about</b> 9 <b>within the limited time available, but then it's</b> 10 <b>traditional at the Pentagon if you think issues are going</b> 11 <b>to come up that need to be addressed in more detail, you</b> 12 <b>put them in something they call back-up slides in case you</b> 13 <b>have to pull them up to talk about them.</b> 14 <b>And we expected there would be significant</b> 15 <b>discussion about security issues at the conference,</b> 16 <b>because there always were significant discussions about</b> 17 <b>security issues. So we wanted some back-up slides to talk</b> 18 <b>about the security issues. And that's why they're all</b> 19 <b>related to security issues.</b> 20 Q. What were the security issues that were 21 discussed at the conference? 22 <b>A. What kind of security checks are MAVNIs going</b> 23 <b>through before they enlist, what kind of security checks</b> 24 <b>should be done after they enlist. This has been kind of a</b> 25 <b>constant theme. There was always a struggle in the MAVNI</b></p>	<p style="text-align: right;">Page 312</p> <p>1 <b>different types of visas. So it was common whenever I</b> 2 <b>gave a presentation I had to explain that to people,</b> 3 <b>because they didn't understand it.</b> 4 MR. SWINTON: Ms. Stock, I think that's all my 5 questions for now. 6 MR. O'DONNELL: No questions. 7 MR. SWINTON: Before we go off the record, I do 8 want to make two points. First, I just want to make sure 9 we memorialize and document our agreement about the 10 documents, the CI reports I guess specifically, that were 11 brought here today. 12 You brought the originals, Neil, and I 13 understand that you've asked for those to be returned. 14 We've agreed to have you take those with you today, 15 subject to you providing them to us with either hard 16 copies or electronic copies of those documents by the end 17 of this week, which is October 19th. 18 MR. O'DONNELL: My plan would be to scan them 19 and send you a thumb drive. 20 MR. SWINTON: And that works fine for us, again, 21 as long as we can receive that by October 19th. And we 22 would reserve our right to reopen the deposition in the 23 event that we don't receive the documents by then. But 24 otherwise, it seems like we have an agreement. 25 The second point I want to make clear on the</p>
<p style="text-align: right;">Page 311</p> <p>1 program between, as I said, the security people and the 2 human resources people. And very few people understood 3 much about immigration law, and fewer people understood 4 exactly what the MAVNIs were. 5 So we were constantly having to explain to 6 people that these are not undocumented immigrants, and 7 talking to people about what a H-1B visa is, what an F-1 8 visa is, what kind of security checks the State Department 9 goes through with people when they issue them a visa 10 overseas. So this was intended to help explain to people 11 that these were not undocumented immigrants. 12 It was a common problem throughout the program 13 that lots of people, for whatever reason, thought the 14 MAVNI program was unauthorized immigrants coming into the 15 military. And it was not at all about unauthorized 16 immigrants coming into the military. But lots of people 17 in the building seemed to think these people were 18 undocumented immigrants, so we were constantly fighting 19 that battle with people in the military, explaining that, 20 no, they're not unauthorized immigrants. 21 Just to add to that, the vast majority of people 22 in the general public don't appreciate the differences 23 between somebody with a green card and somebody with some 24 other legal status. They just think everybody is all the 25 same and they don't understand the differences between the</p>	<p style="text-align: right;">Page 313</p> <p>1 record is that we reserve the right to reopen the 2 deposition based on any discussions between counsel and 3 the witness during breaks, including the lunch break. 4 We've pointed you to multiple authorities which state that 5 once the deposition begins, counsel is not able to confer 6 with the witness about the subject of the deposition, 7 except to determine whether a privilege applies. 8 You've asserted -- you've objected and 9 instructed the witness not to answer questions pertaining 10 to discussions during breaks, which we believe is 11 improper, and so we reserve the right to reopen the 12 deposition if necessary to address any impermissible 13 coaching. 14 That's all. Thank you. 15 (Proceedings concluded at 5:40 p.m.) 16 (Signature reserved) 17 18 19 20 21 22 23 24 25</p>

REPORTER'S CERTIFICATE

I, DEIRDRE J.F. RADCLIFFE, Verbatim Shorthand Reporter, and Notary Public in and for the State of Alaska, do hereby certify that the witness in the foregoing proceedings was duly sworn; that the proceedings were taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the testimony and proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of October 2018.



DEIRDRE J.F. RADCLIFFE  
My Commission Expires 5/31/22

Errata Sheet

NAME OF CASE: TIWARI, ET AL. v MATTIS

DATE OF DEPOSITION: 10/15/2018

NAME OF WITNESS: MARGARET STOCK

Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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